



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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(*Copies are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)

PROVINCIAL NOTICE

The following Provincial Notice is published for comment:

Draft Western Cape Land Use Planning Amendment Bill, 2023

P.N. 110/2023

9 November 2023

Any person or organisation wishing to comment on the Draft Western Cape Land Use Planning Amendment Bill, 2023 is invited to submit comment in writing on or before 17 January 2024—

- (a) by posting it to:
The Director
Attention: Mr Theo Rebel
Directorate Development Management
Region 2
Department of Environmental Affairs and
Development Planning
Private Bag X9086
Cape Town 8000
- (b) by delivering it at:
Registry
Attention: Mr Theo Rebel
Utilitas Building
1 Dorp Street
Cape Town 8001
- (c) by faxing it to:
Fax no: 021 483 3633
Attention: Mr Theo Rebel; or
- (d) by e-mailing it to:
theo.rebel@westerncape.gov.za

INHOUD

(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir kommentaar gepubliseer:

Wes-Kaapse Konsepwysigingswetsontwerp op Grondgebruikbeplanning, 2023

P.K. 110/2023

9 November 2023

Enige persoon of organisasie wat op die Wes-Kaapse Konsepwysigingswetsontwerp op Grondgebruikbeplanning, 2023, kommentaar wil lewer, word uitgenooi om sodanige skriftelike kommentaar in te dien voor of op 17 Januarie 2024—

- (a) deur dit te pos aan:
Die Direkteur
Aandag: Mnr Theo Rebel
Direktoraat Ontwikkelingsbeheer
Streek 2
Departement van Omgewingsake en
Ontwikkelingsbeplanning
Privaat Sak X9086
Kaapstad 8000
- (b) deur dit af te lewer by:
Registrasie
Aandag: Mnr Theo Rebel
Utilitas-gebou
Dorpstraat 1
Kaapstad 8001
- (c) deur dit te faks na:
Faksnr: 021 483 3633
Aandag: Mnr Theo Rebel; of
- (d) deur dit per e-pos te stuur na:
theo.rebel@westerncape.gov.za

IZIQLATHO

(*Iikopi zijfumaneka kwiGumbi M21, iSakhiwo seNdlu yoWiso-mthetho yePhondo, 7 Wale Street, eKapa 8001.)

ISAZISO SEPHONDO

Ezi Saziso sePhondo silandelayo sipapashelwe izimvo:

Uqulunqo loMthetho oYilwayo woCwangciso loSetyenziso loMhlaba weNtshona Koloni, 2023

I.S. 110/2023

9 kweyeNkanga 2023

Nawuphi na umntu okanye umbutho onqwenela ukunika izimvo kuqulunqo loMthetho oYilwayo woCwangciso lokuSetyenziswa koMhlaba weNtshona Koloni, 2023, uyacelwa ukuba angenise ezo zimvo ngokuzibhala ngaphambi okanye ngomhla we17 Mqungu 2024—

- (a) ngokuzithumela ngeposi ku:
UMlawuli
Ukuqwalaselwa nguMnu Theo Rebel
Directorate Development Management,
Region 2
Department of Environmental Affairs and
Development Planning
Private Bag X9086
Cape Town 8000
- (b) ngokuzisa kwi:
Gumbi lokugcina iiRejista
Ukuqwalaselwa ngu: Mnu Theo Rebel
Isakhiwo i-Utilitas
Kwanombolo 1 kwiSitalatoiDorp
EKapa 8001
- (c) ngokuthumela ifeksi ku:
Inombolo yefeksi: 021 483 3633
Ukuqwalaselwa: nguMnu Theo Rebel;
okanye
- (d) ngokuthumela i-imeyile ku:
theo.rebel@westerncape.gov.za

PROVINCIAL NOTICE

The following Provincial Notice is published for comment.

DR HC MALILA,
DIRECTOR-GENERAL

Provincial Legislature Building,
Wale Street,
Cape Town.

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir kommentaar gepubliseer.

DR HC MALILA,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaapstad.

ISAZISO SEPHONDO

Esi saziso silandelayo sipapashelwe ukunika izimvo.

GQIR HC MALILA,
MLAWULI-JIKELELE

ISakhiwo sePhondo,
Wale Street,
eKapa.

PROVINCIAL NOTICE

P.N. 110/2023

9 November 2023

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

DRAFT WESTERN CAPE LAND USE PLANNING AMENDMENT BILL, 2023

To amend the Western Cape Land Use Planning Act, 2014, so as to insert and substitute certain definitions and to delete a definition; to effect textual improvements relating to the adoption of an amended municipal spatial development framework; to remove certain references to structure plans; to provide that a utilisation or a development of land which is not in conflict with, or which does not undermine, the relevant main goals and objectives of the applicable spatial development framework is deemed consistent with that framework; to provide for municipalities to impose a validity period as a condition of the approval of a rezoning, a subdivision, a consolidation or a departure; to make different provision regarding subdivision applications; to make different provision for the consideration of applications for the removal, suspension or amendment of a restrictive condition; to expressly provide for a municipality to include the provision of inclusionary housing as a condition of a land use approval; to remove the requirement that an applicant in a land use application must submit the consent of a mortgage holder if applicable; to make different provision for the publication and serving of notices regarding applications that a municipality is considering in terms of the Act or any other law regulating land use planning; to make different provision for the instances when, and by when, the Head of Department must comment on a land use application; to decrease the period within which an organ of state must comment on a land use application; to make different provision for notifying persons and the public of a decision on a land development application by the municipality; to make different provision for the notification process of decisions made by the Head of Department on land use applications; to make different provision when the Provincial Minister grants, or amends a condition relating to an emergency authorisation for an exemption from provisions of the Act; to provide for municipalities to exempt applications for subdivision or consolidation arising from the establishment of a development scheme from provisions otherwise applicable to applications for subdivision or consolidation; to make textual improvements to section 61(2)(e); to make different provision for integrated procedures and decisions; to provide for transitional provisions; and to provide for matters incidental thereto.

BE IT ENACTED by the Western Cape Provincial Parliament, as follows:—

Amendment of section 1 of Act 3 of 2014

1. Section 1 of the Western Cape Land Use Planning Act, 2014 (the principal Act), is amended—

(a) by the insertion after the definition of “heritage resource” of the following definition:

“ **‘inclusionary housing’** means a spatially targeted mechanism that relies on the regulatory system of development planning permissions to oblige property developers to provide affordable housing, for sale or rent, within their development;”;

(b) by substitution for the definition of “restrictive condition” of the following definition:

“ **‘restrictive condition’** has the meaning assigned to it in the Spatial Planning and Land Use Management Act;”;

(c) by the insertion after the definition of “spatial planning” of the following definition:

“ **‘Spatial Planning and Land Use Management Act’** means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);”.

Amendment of section 10 of Act 3 of 2014

2. Section 10 of the principal Act is amended by the substitution for subsection (1) of the following subsection—

“(1) A municipality must comply with section 11 when it adopts [**or amends**] its municipal spatial development framework or an amended municipal spatial development framework in terms of the Municipal Systems Act.”.

Amendment of section 11 of Act 3 of 2014

3. Section 11 of the principal Act is amended—

(a) by the substitution for the heading of the following heading:

‘Adoption [or amendment**] of municipal spatial development frameworks or amended municipal spatial development frameworks’**;

(b) by the substitution for the words preceding paragraph (a) of the following words—

“The processes adopted by a municipality in terms of sections 28 and 34 of the Municipal Systems Act relating to the adoption [**or amendment**] of its municipal spatial development framework or amended municipal spatial development frameworks must make provision for—”.

Amendment of section 13 of Act 3 of 2014

4. Section 13 of the principal Act is amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
“(a) must submit a draft municipal spatial development framework or draft **[amendment of a] amended** municipal spatial development framework to the Provincial Minister for written comment; and”;
 - (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
“(b) may not adopt its municipal spatial development framework or **[approve] an amended municipal spatial development framework [amendment thereof]** until—”.

Amendment of section 14 of Act 3 of 2014

5. Section 14 of the principal Act is amended—
- (a) by the substitution for paragraph (a) of the following paragraph:
“(a) a written notice of the decision to adopt **[or amend]** a municipal spatial development framework or an amended municipal spatial development framework, together with the reasons for the decision;”;
 - (b) by the substitution for paragraph (b) of the following paragraph:
“(b) the adopted **[or amended]** municipal spatial development framework or amended municipal spatial development framework; and”.

Amendment of section 19 of Act 3 of 2014

6. Section 19 of the principal Act is amended—
- (a) by the substitution for the heading of the following heading:
“**Compliance or consistency with, and deviation from, spatial development frameworks [or structure plans]**”;
 - (b) by the substitution for subsection (1) of the following subsection:
“(1) If a spatial development framework **[or structure plan]** specifically provides for the utilisation or development of land as proposed in a land use application or land development application, the proposed utilisation or development is regarded as complying with that spatial development framework **[or structure plan]**.”;
 - (c) by the substitution for subsection (2) of the following subsection:
“(2) If a spatial development framework **[or structure plan]** does not specifically provide for the utilisation or development of land as proposed in a land use application or a land development application, but the proposed utilisation or development is not in conflict with, or does not undermine, the main goals and objectives of [the purpose of the relevant designation in] the spatial development framework **[or structure plan]**, the utilisation or development is regarded as being consistent with that spatial development framework **[or structure plan]**.”; and

(d) by the substitution for subsection (3) of the following subsection:

“(3) If the proposed utilisation or development of land in a land use application or a land development application does not comply with and is not consistent with the **[relevant designation for the utilisation of land in an applicable]** spatial development framework **[or structure plan]**, the proposed utilisation or development deviates from that spatial development framework **[or structure plan]**.”.

Amendment of section 35 of Act 3 of 2014

7. Section 35 of the principal Act is amended by the substitution for subsection (3) of the following subsection—

“(3) When a municipality approves a land use application for a rezoning, departure or consent use, the municipality must consider imposing a validity period for the approval as a condition of the approval.”.

Amendment of section 36 of Act 3 of 2014

8. Section 36 of the principal Act is amended—

(a) by the substitution for subsection (3) of the following subsection:

“(3) A municipality must **[require at least the following]** in respect of an application for subdivision require the competent person to submit a subdivision plan showing the following:

- (a) **[if a change of zoning is involved that the application relates to land that is zoned, or will be zoned, for a purpose including subdivision]** the location of proposed land units, public places and land needed for public purposes; and
- (b) **[the submission of a subdivision plan showing the following:]** the proposed zonings in respect of the proposed land units.
 - [(i) the location of proposed land units, public places and land needed for public purposes; and**
 - (ii) the proposed zonings in respect of the proposed land units.]”;**

(b) by the substitution for subsection (6) of the following subsection:

“(6) When a municipality **[approves a rezoning for a purpose that includes subdivision, it must impose conditions making provision for at least—]** considers an application for subdivision that includes land which the applicant intends to be further subdivided or subdivided in the future, the municipality may only approve the application if that land is zoned, or will be zoned, for a purpose including subdivision.

- [(a) density requirements;**
- (b) main land uses and the extent thereof; and**
- (c) a detailed phasing plan or a framework including—**
 - (i) main transport routes;**

- (ii) **main land uses;**
- (iii) **bulk infrastructure;**
- (iv) **requirements of organs of state;**
- (v) **public open space requirements; and**
- (vi) **physical development constraints.]”;**

(c) by the insertion after subsection (6) of the following subsection:

“(6A) When a municipality approves a rezoning contemplated in subsection (6), it must impose conditions making provision for at least:

- (a) density requirements;
- (b) main land uses and the extent thereof; and
- (c) a detailed phasing plan or a framework including—
 - (i) main transport routes;
 - (ii) main land uses;
 - (iii) bulk infrastructure;
 - (iv) requirements of organs of state;
 - (v) public open space requirements; and
 - (vi) physical development constraints.”;

(d) by the substitution for paragraph (d) of subsection (8) of the following paragraph:

“(d) registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan, or the applicant must submit to the municipality a certificate of registered title in terms of the Deeds Registries Act stating that the land unit shown on the diagram or at least one new land unit shown on the general plan is registered.”;

(e) by the substitution for subsection (9) of the following subsection:

“(9) A municipality must, in accordance with minimum standards as may be prescribed—

- (a) consider imposing, as a condition of an approval of a subdivision, a validity period for the lapsing of the approval if an applicant fails to comply with the requirements referred to in subsection (8) within the validity period; and
- (b) make provision for the confirmation of the subdivision, including the confirmation of the zonings and the vesting of ownership of the public places in the municipality, upon or after compliance with the requirements referred to in subsection (8).”.

Amendment of section 38 of Act 3 of 2014

9. Section 38 of the principal Act is amended by the substitution for subsection (3) of the following subsection:

“(3) When a municipality approves a consolidation of land units, the municipality must consider imposing a validity period for the approval as a condition of granting the approval.”.

Amendment of section 39 of Act 3 of 2014

10. Section 39 of the principal Act is amended—

(a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) any other person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application.”;

(b) by the substitution for subsection (3) of the following subsection:

“(3) When a municipality removes, suspends or amends a restrictive condition on its own initiative, the municipality must comply with subsection (2) and section 43 **[and must have regard to at least the matters referred to in section 49(a) to (e)].**”; and

(c) by the deletion of subsection (5).

Amendment of section 40 of Act 3 of 2014

11. Section 40 of the principal Act is amended—

(a) by the substitution for the full stop in paragraph (q) of subsection (2) of a semicolon;

(b) by the addition after paragraph (q) of subsection (2) of the following paragraph—

“(r) inclusionary housing.”.

Substitution of section 42 of Act 3 of 2014

12. The following section is substituted for section 42 of the principal Act:

“42. An applicant in a land use application must submit at least the following to the municipality in respect of the land concerned:

(a) a copy of the relevant extract of the approved general plan or diagram; and

(b) a copy of the title deed.”.

Substitution of section 43 of Act 3 of 2014

13. The following section is substituted for section 43 of the principal Act:

“Publication of notices

43. (1) When a municipality intends to consider an application in terms of this Act or any other law regulating land use planning, the decision relating to which will likely materially and adversely affect the rights of the public or the interests of the community, it must—

- (a) take appropriate steps to communicate the application to those likely to be materially and adversely affected by it and call for comments from them;
- (b) consider any comments received; and
- (c) decide whether or not to approve the application, with or without changes.

(2)(a) Information concerning the application must be published by way of notice if the application—

- (i) affects the rights of the public throughout the Republic of South Africa, in the *Government Gazette* and a newspaper which is distributed, or in newspapers which are distributed collectively throughout the Republic of South Africa;
- (ii) affects the rights of the public in the Province only, in the *Provincial Gazette* and a newspaper which is distributed, or in newspapers which are distributed collectively throughout the Province; or
- (iii) affects the rights of the public or the interests of the community in a specific area only, in a newspaper which is distributed in that specific area.

(b) A notice published in terms of paragraph (a) must take account of language preferences and usage in the area concerned.

(3) A notice published in terms of subsection (2) must—

(a) include sufficient information about the application to enable members of the public to submit meaningful comments, including, at least—

- (i) information on the nature and purpose of the application; and
- (ii) a description of the land unit or land units to which the application relates;

(b) specify a place or places where, and the hours within which, further information concerning the application will be available for public scrutiny;

(c) include an invitation to members of the public to submit written comments in connection with the application to the municipality on or before a date specified in the notice, which date may not be earlier than 30 days from the date of publication of the notice;

(d) include a caution that comments received after the closing date may be disregarded;

(e) indicate the name and official title of the person to whom any comments must be sent or delivered, and that person’s—

- (i) work, postal, street and email address; and
- (ii) work telephone number;

- (f) specify that the applicant and any person who lodged a comment on the application will be notified of the decision on the application, and that the decision will be published on the municipality's website, as contemplated in section 50(1).
- (4) A notice published in terms of subsection (2)(a)(i) and (ii) in a newspaper may, notwithstanding subsection (3), only contain—
- (a) a concise statement of the application;
 - (b) the name, official title, contact telephone number, email address and physical address of the person from whom further information on the application and the administrative procedure can be obtained; and
 - (c) a note that a more detailed notice concerning the application appears in the *Government Gazette* or *Provincial Gazette*, as the case may be.
- (5) Access to further information as contemplated in subsection (3)(b) must be allowed from the date on which the notice is published until the closing date for comment, during normal office hours.
- (6)(a) In order to ensure that the application is brought to the attention of the public, the municipality may, in addition, publicise the information referred to in subsections (3) or (4) by way of communications through the printed or electronic media, including by way of press releases, press conferences, the internet, radio or television broadcasts, posters, leaflets, announcements through a loudhailer, publications on community notice boards, emails or social media.
- (b)(i) The municipality may cause a notice to be displayed on the land concerned.
 - (ii) A notice contemplated in subparagraph (i) must comply with subsection (3) and must remain legible for the notice period.
- (7)(a) If the application may materially and adversely affect the rights of members of a specific community consisting of a significant proportion of people who cannot read or write or who otherwise need special assistance, the municipality must take special steps to solicit the views of members of the community.
- (b) Special steps in terms of paragraph (a) may include—
 - (i) the holding of public or group meetings where the application is explained, questions are answered and views from the audience are minuted;
 - (ii) a survey of public opinion in the community on the application; or
 - (iii) provision of a secretarial facility in the community where members of the community can state their views on the application.
- (8)(a) The municipality may extend the closing date for comment contemplated in subsection (3)(c).
- (b) Any extension of the closing date of more than one month must be published by way of a notice as prescribed in subsection (2) and, when appropriate, in subsection (6).
- (9)(a) The municipality—
- (i) may refuse to accept comments received after the closing date for comment; or

- (ii) may, but is not obliged to, grant requests for condonation of late submission of comments.
- (b) A request for condonation may be granted on good cause shown by the person who submitted the comments if that condonation would not—
- (i) lead to unnecessary delays; or
 - (ii) otherwise prejudice the public interest.
- (10)(a) If it is reasonable and justifiable in the circumstances, the municipality may depart from the provisions of this section.
- (b) In determining whether a departure as contemplated in paragraph (a) is reasonable and justifiable, the municipality must take into account all relevant factors, including—
- (i) the objects of this Act, and any other applicable law regulating land use planning;
 - (ii) the nature and purpose of, and the need for, the approval of the application;
 - (iii) the likely effect of the approval of the application;
 - (iv) the urgency of approving the application or the urgency of the matter; and
 - (v) the need to promote an efficient administration and good governance.
- (11) The publication of a notice contemplated in subsection (2) does not release a municipality from the obligation to cause a notice to be served in the instances contemplated in section 44(1).”.

Substitution of section 44 of Act 3 of 2014

14. The following section is substituted for section 44 of the principal Act:

“Serving of notices

44. (1) When a municipality intends to consider an application in terms of this Act or any other law regulating land use planning, the decision relating to which will likely materially and adversely affect the rights or legitimate expectations of any person, it must—
- (a) cause a notice regarding the application to be served on that person and call for comments from that person;
 - (b) consider any comments received; and
 - (c) decide whether or not to approve the application, with or without changes.
- (2) The notice contemplated in subsection (1)(a) must—
- (a) include sufficient information about the application to enable the person to submit meaningful comments, including, at least—
 - (i) information on the nature and purpose of the application; and
 - (ii) a description of the land unit or land units to which the application relates;

- (b)* specify a place or places where, and the hours within which, further information concerning the application will be available for inspection;
 - (c)* include an invitation to the person to submit written comments in connection with the application to the municipality on or before a date specified in the notice, which date may not be earlier than 30 days from the date of the serving of the notice;
 - (d)* include a caution that comments received after the closing date may be disregarded;
 - (e)* specify the name and official title of the person to whom any comments must be sent or delivered, and that person's—
 - (i)* work, postal, street and email address;
 - (ii)* work telephone number; and
 - (f)* specify that the applicant and any person who submitted a comment on the application will be notified of the decision on the application, and that the decision will be published on the municipality's website, as contemplated in section 50(1), and must take into account language preferences and usage in the area concerned.
- (3) Access to further information as contemplated in subsection (2)(*b*) must be allowed from the date on which the notice is served until the closing date for comment, during normal office hours.
- (4) The municipality may, in its discretion, also give a person referred to in subsection (1) an opportunity to—
- (a)* obtain assistance and, in serious or complex cases, legal representation;
 - (b)* present and dispute information and arguments; and
 - (c)* appear in person.
- (5)(*a*) If the application may materially and adversely affect the rights or legitimate expectations of a person who cannot read or write or who otherwise needs special assistance—
- (i)* the notice must include information set out in a manner that will bring the application to the attention of that person; and
 - (ii)* the municipality must take special steps to solicit the views of that person.
- (b)* Special steps in terms of paragraph (*a*)(*ii*) may include—
- (i)* the holding of a meeting where the application is explained, questions are answered and views of that person are minuted; or
 - (ii)* the provision of a secretarial facility to assist that person to state that person's views on the application.
- (6)(*a*) The municipality may extend the closing date for comment contemplated in subsection (2)(*c*).

- (b) The municipality must inform every person whose rights or legitimate expectations may be materially and adversely affected by the application of any extension of the closing date of more than one month by serving another notice as prescribed in subsection (1)(a).
- (7)(a) The municipality—
- (i) may refuse to accept comments received after the closing date for comment; or
 - (ii) may, but is not obliged to, grant requests for condonation of late submission of comments.
- (b) A request for condonation may be granted on good cause shown by the person who submitted the comments if that condonation would not—
- (i) lead to unnecessary delays; or
 - (ii) otherwise prejudice the public interest.
- (8)(a) If it is reasonable and justifiable in the circumstances, the municipality may depart from the provisions of this section.
- (b) In determining whether a departure as contemplated in paragraph (a) is reasonable and justifiable, the municipality must take into account all relevant factors, including—
- (i) the objects of this Act, and any other applicable law regulating land use planning;
 - (ii) the nature and purpose of, and the need for, the approval of the application;
 - (iii) the likely effect of the approval of the application;
 - (iv) the urgency of approving the application or the urgency of the matter; and
 - (v) the need to promote an efficient administration and good governance.”.

Amendment of section 45 of Act 3 of 2014

15. Section 45 of the principal Act is amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
 - “(a) a development [**outside**] which deviates from the municipality’s [**planned outer limit of urban expansion as reflected in its**] municipal spatial development framework;”;
 - (b) by the deletion of paragraph (b) of subsection (1);
 - (c) the deletion of paragraph (c) of subsection 1;
 - (d) by the substitution for paragraph (e) of subsection (1) of the following paragraph:
 - “(e) development [**as prescribed**] that affects a provincial functional area;”
 and

(e) by the substitution for subsection (2) of the following subsection:

“(2) The Head of Department must, within [60] 30 days of a request for comment contemplated in subsection (1), submit written provincial comments to the municipal manager.”.

Amendment of section 47 of Act 3 of 2014

16. Section 47 of the principal Act is amended by the substitution for subsection (1) for the expression “60” of the expression “30”.

Amendment of section 49 of Act 3 of 2014

17. Section 49 of the principal Act is amended—
(a) by the deletion of paragraph (b).

Substitution of section 50 of Act 3 of 2014

18. The following section is substituted for section 50 of the principal Act:

“Notification of municipal decisions

50. (1) A municipality must, after taking a decision contemplated in this Chapter, at least—

(a) in writing notify the applicant and any person who submitted a comment on the application, of the decision and reasons for the decision, and inform such persons of any right of appeal, where applicable; and

(b) publish the decision on its website for a period of at least 90 days and, in such publication, notify members of the public whose rights are materially and adversely affected by the decision of the decision, reasons for the decision and the right of appeal.

(2) The notices contemplated in subsection (1) must also, where applicable—

(a) stipulate the period in which the appeal proceedings, if any, must be instituted;

(b) state the name and address of the person with whom proceedings for appeal must be instituted; and

(c) set out any other formal requirements in respect of the proceedings for appeal.”.

Amendment of section 51 of Act 3 of 2014

19. Section 51 of the principal Act is amended by the addition of the following subsection:

“(5) Nothing in this section prohibits a person from instituting proceedings for the judicial review of a decision as contemplated in section 6 of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).”.

Amendment of section 54 of Act 3 of 2014

20. Section 54 of the principal Act is amended by the substitution for subsection (7) of the following subsection—

“(7) The Head of Department, within 21 days of his or her decision on a land development application—

(a) must publish the decision on the Department’s website for a period of at least 90 days and, in such publication, notify members of the public whose rights are materially and adversely affected by the decision of the decision and reasons for the decision and the right of appeal;

(b) may cause the public to be notified of the decision and reasons for the decision by publishing a notice in newspapers circulated in the relevant area or in the *Provincial Gazette*, by way of communications through the printed or electronic media, including by way of press releases, press conferences, radio or television broadcasts, posters, leaflets, announcements through a loudhailer, publications on community notice boards, emails or social media, or by way of a combination of such methods; and

(c) must in writing notify the applicant and any person who lodged an objection against the application, of the decision and reasons for the decision, and inform such persons of any right of appeal, where applicable.”.

Amendment of section 55 of Act 3 of 2014

21. Section 55 of the principal Act is amended by the deletion of subparagraph (ii) subsection (c).

Amendment of section 60 of Act 3 of 2014

22. Section 60(5) of the principal Act is amended—

(a) by the substitution for the words preceding paragraph (a) of the following words—

“(5) The Provincial Minister must as soon as it is reasonably possible after an authorisation has been granted under subsection (2), or a condition of such an authorisation has been amended or withdrawn under subsection (6)—”;

(b) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) [**within 48 hours of an authorisation under subsection (2), or an amendment or withdrawal of a condition of such an authorisation under subsection (6),**] notify the Provincial Cabinet thereof and cause a notice thereof to be published in the *Provincial Gazette*; and”;

- (c) by the substitution for paragraph (b) of subsection (5) of the following paragraph:
“**[within 14 days of the authorisation or the amendment or withdrawal of the condition,]** submit a report thereof to the Provincial Cabinet if the Provincial Minister deems it necessary under the circumstances.”.

Amendment of section 61 of Act 3 of 2014

23. Section 61 of the principal Act is amended—

- (a) by the addition after subparagraph (v) of paragraph (d) of subsection (2) of the following subparagraph:
“(vi) the establishment or amendment of a development scheme as defined in section 1(1) of the Sectional Titles Act, 1986 (Act 95 of 1986)”; and
- (b) by the substitution for subparagraphs (i) and (ii) of paragraph (e) of subsection (2) of the following subparagraphs, respectively:
“(i) in the case of a subdivision or a consolidation, does not lead to urban expansion; and
(ii) in the case of a subdivision, requires approval in terms of legislation regulating the subdivision of agricultural land; or”.

Amendment of section 66 of Act 3 of 2014

24. Section 66 of the principal Act is amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
“(a) the adoption **[or amendment]** of a municipal spatial development framework or an amended municipal spatial development framework;”;
- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
“(a) deciding on the adoption **[or amendment]** of a provincial spatial development framework, an amended provincial spatial development framework or provincial regional spatial development framework;”;
- (c) by the substitution for paragraph (b) of subsection (4) of the following paragraph:
“(b) providing comments contemplated in section 12(4) or 13(2) on the adoption **[or amendment]** of a municipal spatial development framework or an amended municipal spatial development framework;”.

Amendment of section 67 of Act 3 of 2014

25. Section 67 of the principal Act is amended—

- (a) by the substitution for subsection (5) of the following subsection:
“(5) A municipality or the Head of Department may decide on an application that also requires approval in terms of other legislation on the basis of a process prescribed under that legislation, but only if **[that process meets the requirements of the applicable by-laws and this Act]** it is reasonable and justifiable to do so.”;

(b) by the insertion after subsection (5) of the following subsection;

“(5A) In determining whether deciding an application on the basis of a process prescribed under other legislation as contemplated in subsection (6) is reasonable and justifiable, the municipality or Head of Department must take into account all relevant factors, including—

- (a) the objects of this Act;
- (b) the nature and purpose of, and the need for, the approval of the application;
- (c) the likely effect of the approval of the application;
- (d) the urgency of approving the application or the urgency of the matter; and
- (e) the need to promote an efficient administration and good governance.”.

(c) by the substitution for subsection (6) of the following subsection:

“(6) The Head of Department may decide on an application contemplated in section 54 on the basis of a process prescribed under the by-laws of the relevant municipality, but only if **[that process meets the requirements of this Act]** it is reasonable and justifiable to do so.”; and

(d) by the insertion after subsection (6) of the following subsection;

“(6A) In determining whether deciding an application on the basis of a process prescribed under other legislation as contemplated in subsection (6) is reasonable and justifiable, the municipality or Head of Department must take into account all relevant factors, including—

- (a) the objects of this Act;
- (b) the nature and purpose of, and the need for, the approval of the application;
- (c) the likely effect of the approval of the application;
- (d) the urgency of approving the application or the urgency of the matter; and
- (e) the need to promote an efficient administration and good governance.”.

Amendment of section 68 of Act 3 of 2014

26. Section 68 of the principal Act is amended—

(a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:

“take any action authorised under this Act to enforce the **[terms or]** conditions of an approval granted under section 54 or 56(6) or to remedy a contravention thereof or a contravention of section 53(1).”.

Amendment of arrangement of sections of Act 3 of 2014

27. The arrangement of sections before section 1 of the principal Act is amended—
- (a) by the substitution for the reference to section 11 of the following item:

“11. Adoption [**or amendment**] of municipal spatial development frameworks or amended municipal spatial development frameworks”;
 - (b) by the substitution for the reference to section 19 of the following item:

“19. Compliance or consistency with, and deviation from, spatial development frameworks [**or structure plans**]”.

Transitional measures

28. A land use application or land development application made before the commencement of this Act that has not been finalised before the commencement of this Act must be finalised as if this Act is not in force.

Short title and commencement

29. This Act is called the Western Cape Land Use Planning Amendment Act, 2023 and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

MEMORANDUM ON THE OBJECTS OF THE DRAFT WESTERN CAPE LAND USE PLANNING AMENDMENT BILL, 2023

1. BACKGROUND

- 1.1. The Western Cape Land Use Planning Amendment Bill (“the Draft Amendment Bill”) proposes amendments to various provisions of the Western Cape Land Use Planning Act (Act 3 of 2014) (“the Act”). The proposed amendments are aimed at improving the legal framework which the Act prescribes for planning and development, and at reducing red tape and overregulation, in the light of practical experience gained during the implementation of the Act.
- 1.2. The Act was assented to on 31 March 2014. The commencement of the Act was staggered in respect of various municipalities during the period 2015 to 2016.
- 1.3. The Act was promulgated at a time when many municipalities in the Western Cape were still in the process of adopting by-laws on municipal land use planning. The Act ensured that during this transition phase of the law reform process municipalities gave effect to certain minimum requirements and adhered to certain minimum standards.
- 1.4. Since 2016, all municipalities in the Western Cape have adopted and implemented by-laws that, among other things, give effect to those minimum requirements and standards. The Act has been reviewed against this background taking into consideration municipal experience. For this reason, the minimum requirements and standards are in some instances being reconsidered and reformulated, and in other instances relaxed to provide for more municipal discretion on land use planning processes.
- 1.5. Certain proposed amendments to the Act aim to reduce red tape and overregulation, aim to further clarify certain provisions and effect textual improvements, and aim to align the Act with contemporary circumstances by, for example, removing certain references to structure plans in order to reflect the fact that all structure plans have now been phased out in all Western Cape municipalities.

2. OBJECTS OF DRAFT BILL

The objects of the Amendment Bill are to—

- 2.1. insert and amend certain definitions;
- 2.2. introduce flexibility regarding various aspects of provincial regulation of municipal planning, including where an application for subdivision of land does not contemplate future or further subdivision;
- 2.3. eliminate unnecessary red tape and overregulation, also in relation to provincial involvement in land use applications;
- 2.4. align the Act with the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), (MSA) regarding the adoption of amended municipal spatial development frameworks;
- 2.5. remove superfluous requirements in the Act that regulate removal of restrictive conditions;

- 2.6. provide for inclusionary housing to be included as a condition in application approvals;
- 2.7. provide greater discretion to municipalities regarding the public consultation and other processes that a municipality may follow before taking decisions regarding land use applications;
- 2.8. reduce the administrative burden that arises when the Provincial Minister seeks to grant emergency exemptions and authorisations under the Act; and
- 2.9. make textual improvements.

3. CONTENTS OF DRAFT BILL

- 3.1. **Clause 1** provides for the amendment of the definitions set out in section 1 of the Act as follows:
 - 3.1.1. new definitions are inserted for “inclusionary housing” and “Spatial Planning and Land Use Management Act”;
 - 3.1.2. the definition of “restrictive condition” is amended to align it with the definition in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA) and to remove the ambiguity and uncertainty created by the exclusion in the definition of servitudes creating real or personal rights;
- 3.2. **Clauses 2, 3, 4, 5 and 24** make technical amendments to sections 10, 11, 13, 14 and 66 of the Act respectively, to reflect the requirement in the MSA that obliges municipalities to adopt amended municipal spatial development frameworks.
- 3.3. **Clause 6** amends section 19 of the Act to remove all references in the section to structure plans. A further amendment is made that provides for a utilisation or development of land proposed in a land use application to be deemed consistent with a spatial development framework if it is not in conflict with or does not undermine the main goals and objectives of the spatial development framework. This amendment enables municipalities to approve land use applications that are not in conflict with or do not undermine its main goals and objectives. In addition, a further amendment is made, which provides that a proposed utilisation or development of land deviates from a spatial development framework if it is not consistent with or does not comply with a spatial development framework.
- 3.4. **Clause 7** amends section 35 of the Act to provide that a municipality must consider imposing a validity period as a condition of approval when it approves a rezoning, departure or consent use. The reason for this is that the Act no longer contains an automatic lapsing clause, and a validity period would therefore need to be imposed as a separate condition of approval.
- 3.5. **Clause 8** amends section 36 of the Act to provide that those applications where the applicant applies for subdivision but does not intend to further subdivide the land or does not intend to subdivide that land in the future, will no longer need to show that the relevant portion of the land is zoned, or will be zoned, for a purpose including subdivision. This amendment will mean that it will no longer be a minimum requirement that all land that is the subject of a subdivision application must, where a change in zoning for some of the land is required, be rezoned as having a purpose including subdivision. A further proposed amendment provides that, where the applicant does intend to further subdivide the land in the future, the

municipality must make its rezoning approval conditional on density requirements, main land uses and the extent thereof, and on the provision of a detailed phasing plan or a framework. In addition, clause 8 amends section 36 to provide that, as an alternative to registering the transfer of ownership of the land or at least one new land unit shown on the general plan, an applicant may submit to the municipality a certificate of registered title stating that the land unit shown on the diagram or at least one new land unit shown on the general plan is registered. Furthermore, clause 8 amends section 36(9) to require municipalities to make provision for the confirmation of a subdivision upon or after compliance with the requirements referred to in subsection (8). Finally, a technical amendment is proposed to clarify the requirement that a municipality must consider imposing a validity period as a condition of approval when it approves a subdivision.

- 3.6. **Clause 9** makes a technical amendment to section 38 of the Act to clarify the requirement that a municipality must consider imposing a validity period as a condition of approval when it approves a consolidation.
- 3.7. **Clause 10** amends section 39 of the Act to provide that only those persons whose rights or legitimate expectations will be materially and adversely affected by the approval of the application must be notified of an application for the removal, suspension or amendment of a restrictive condition in a title deed. This amendment will relieve the administrative burden associated with processing the application by aligning the requirements with those contemplated in the Promotion of Administrative Justice Act, 2000 (Act 30 of 2000) (PAJA). The requirement to notify other interested and affected parties by way of publications in the press will remain. Distant owners can still comment and participate in the process, the only difference being that they will not be personally served with a notice. Clause 10 also amends section 39 to remove the obligation on the municipality to consider the factors set out in section 49(a) to (e) of the Act when considering an application for the removal, suspension or amendment of a restrictive condition in a title deed. The municipality is already required, in terms of the provisions of PAJA, to consider these factors when they are relevant to a particular decision in terms of section 39 of the Act, and the Act already provides for similar mandatory considerations elsewhere in the Act, therefore the removal of the obligation to consider the factors in section 49(a) to (e) will result in the removal of red tape and overregulation. Finally, the clause also removes the superfluous compulsory minimum requirements in section 39. The rationale for the amendment is that sections 42(1)(c) and 47(2)(b) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), as well as the principles provided in section 7 provide sufficient considerations and legal guidance to a municipality when considering an application for the removal, suspension or amendment of a restrictive condition. Furthermore, an application for the removal, suspension or amendment of a restrictive condition constitutes a land use application, therefore it falls within the ambit of the relevant considerations as prescribed in section 49(a) to (e) of the Act and the specific reference to it in section 39 is consequently superfluous.
- 3.8. **Clause 11** amends section 40 of the Act to provide for inclusionary housing as a potential condition of approval of a land use application.
- 3.9. **Clause 12** removes the requirement in section 42 of the Act that an applicant must submit the consent of the mortgage holder (if any) as part of a land use application.

- 3.10. **Clause 13** substitutes section 43 of the Act with new provisions relating to public participation procedures that municipalities must follow when considering an application in terms of this Act or any other law regulating land use planning. The substitution will only oblige a municipality to notify members of the public of applications that materially and adversely affect the public's rights or the interests of the community. A further proposed amendment provides for new technical minimum standards for the notices, for methods by which a municipality may publish the notice, for members of the public to request further information for applications in certain circumstances, and for municipalities to depart from the provisions in section 43 of the Act if it is reasonable and justifiable in the circumstances. The experience gained from implementing these sections of the Act has been that these amendments are necessary to grant flexibility to municipalities to follow public participation processes aligned with the specific applications and decisions to be taken where it is reasonable and justifiable to do so, in order to lessen the administrative burden of those processes and eliminate red tape.
- 3.11. **Clause 14** substitutes section 44 of the Act with new provisions relating to notice and comment procedures directed at individual persons, which municipalities must follow when considering an application in terms of this Act or any other law regulating land use planning. The substitution removes the requirement that a municipality notifies persons whose rights or legitimate expectations will not likely be materially and adversely affected by the municipality's subsequent decision. A further proposed amendment provides for new technical minimum standards for the notices, including prescribing that the municipality's decision will be published on the municipality's website, and for municipalities to depart from provisions in section 44 of the Act if it is just and equitable in the circumstances.
- 3.12. **Clause 15** amends section 45 of the Act to reduce the number of compulsory instances where a municipality must request provincial comments on a land use application. The following requirements are amended or removed:
- 3.12.1. the requirement to obtain provincial comment on a development outside the municipality's planned outer limit of urban expansion is replaced with the requirement that provincial comment should be obtained for any application that deviates from the municipality's spatial development framework;
 - 3.12.2. the requirement to obtain provincial comment on a development outside the physical edge of the existing urban area if the municipality has not adopted a municipal spatial development framework, is removed;
 - 3.12.3. the requirement to obtain provincial comment on a rezoning of land zoned for agricultural or conservation purpose has been removed and relocated in section 45(1)(e), which provides for the requirement to obtain provincial comment where a development affects any provincial functional area.

Additionally, clause 15 amends section 45 of the Act by reducing the period in which the Head of Department must submit written provincial comments to the municipal manager on a land use application from 60 days to within 30 days of a request for comment.

- 3.13. **Clause 16** amends section 47 of the Act to reduce the period in which an organ of state must comment on a land use application from 60 days to within 30 days of a request for comment.
- 3.14. **Clause 17** amends section 49 of the Act by removing the requirement in section 49(b) that a municipality consider the applicable structure plans when deciding on a land use application.

- 3.15. **Clause 18** amends section 50 of the Act by restricting the requirement that a municipality notify persons other than the applicant of a decision contemplated in Chapter IV of the Act to those who submitted a comment on the application. A further proposed amendment provides for the requirement that the notice provide reasons for the decision, notify the receiving person of the right to appeal the decision within the stipulated period and of the minimum details required in the appeal, and that the decision be published on the municipality's website for 90 days, informing members of the public whose rights are materially and adversely affected by the decision of the decision, the reasons for the decision and the right to appeal. This will reduce the administrative burden on municipalities, and will also shorten the appeal procedure, as there would be no need separately to request reasons for a decision. Furthermore, the amendments will enable members of the public who were not notified in writing to be advised of the decision and their procedural rights.
- 3.16. **Clause 19** inserts a new subsection (5) to section 51 of the Act, to provide that nothing in section 51 prohibits a person from instituting proceedings for judicial review as contemplated in section 6 of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).
- 3.17. **Clause 20** amends section 54 of the Act by removing the requirement that the decision on a land development application be published in newspapers and the *Provincial Gazette*, and replacing this with the requirement that the decision be published on the Department's website for a period of 90 days, in which notice the Department must notify members of the public whose rights are materially and adversely affected by the decision of the decision and reasons for the decision and right of appeal. A further proposed amendment provides the Head of Department with the discretion whether to publicise the decision and the abovementioned information through one or more other methods, including in newspapers circulated in the relevant area or the *Provincial Gazette*, or by way of communications through the printed or electronic media, and also by prescribing that notice to the applicant and any person who lodged an objection to the application must be informed of the reasons for the decision, as well as their right to appeal, where applicable.
- 3.18. **Clause 21** amends section 55 of the Act by removing the requirement in section 55(c)(ii) that a Head of Department must consider the applicable structure plans when considering and deciding on a land development application.
- 3.19. **Clause 22** amends section 60(5) to provide for the Provincial Minister to notify the Provincial Cabinet of a decision, in an emergency situation, to authorise a municipality to deviate from the provisions of the Act or a condition of the authorisation, as soon as reasonably possible (as opposed to within 48 hours) after the decision to grant the deviation. A further amendment replaces the obligation to submit a report regarding the decision to the Provincial Cabinet within 14 days, with the obligation to submit a report if the Provincial Minister deems it necessary under the circumstances, as soon as reasonably possible. These amendments are required as implementation of these clauses in the Act have shown that, in urgent circumstances, the requirements are unnecessarily onerous and impractical, whereas Provincial Cabinet will be able to exercise sufficient oversight if the requirements are lowered to the standard contemplated in the amendments.
- 3.20. **Clause 23** amends section 61 of the Act by providing that a municipality may exempt applications for subdivision or consolidation arising from the establishment or amendment of a development scheme as defined in section 1(1) of the Sectional Titles Act, 1986 (Act 95 of 1986) (the STA), from the ordinary requirements for those applications in sections 36(1) and

38(1) of the Act, respectively. The current definitions of “land” and “land unit” in SPLUMA and the Act have the unintended consequence that the development of a sectional title scheme requires a municipal approval. Since the SPLUMA definitions cannot be amended, the most practical solution is to exempt the development of a sectional title scheme, as described in terms of the STA, from municipal approval. Clause 23 also makes a technical amendment to section 61 to clarify that the legislation referred to which regulates the subdivision of land relates only to applications for subdivision of agricultural land, not consolidation of the land.

- 3.21. **Clause 25** amends section 67 of the Act in order to remove the requirement that a municipality or a Head of Department may only use a process prescribed under other legislation to decide an application under the Act if that other process strictly complies with the requirements of the Act. Instead, the requirement is introduced that the process in the other legislation may be used only if it is reasonable and justifiable to do so, after considering among other things the objects of the Act. This amendment will ease the regulatory burden of processing applications and encourage the integration of processes under multiple laws.
- 3.22. **Clause 26** makes a technical amendment to section 68(1)(c) of the Act by removing the phrase “terms or” from the section.
- 3.24. **Clause 27** amends the Act by amending the arrangement of sections in order to align it to the amendments to the Act.
- 3.26. **Clause 28** provides for a transitional period whereby a land use application or land development application, made before the Draft Amendment Bill is enacted and commenced, which has not been finalised before that commencement, must be finalised as if the Draft Amendment Bill has not been enacted and commenced.
- 3.27. **Clause 29** provides for the short title and commencement of the Draft Amendment Bill.

4. CONSULTATION

Department of the Premier: Legal Services

5. PERSONNEL IMPLICATIONS

None

6. FINANCIAL IMPLICATIONS

None

7. LEGISLATIVE COMPETENCE

The Provincial Minister responsible for Local Government, Environmental Affairs and Development Planning is satisfied that the provisions of the Amendment Bill fall within the legislative competence of the Province.

PROVINSIALE KENNISGEWING

P.K. 110/2023

9 November 2023

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

**WES-KAAPSE KONSEPWYSIGINGSWETSONTWERP OP GRONDGEBRUIKBEPLANNING,
2023**

Om die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014, te wysig en om sekere definisies in te voeg en te vervang, en om 'n woordoms krywing te skrap; om tekstuele verbeterings aan te bring met betrekking tot die aanneming van 'n gewysigde munisipale ruimtelike ontwikkelingsraamwerk; om sekere verwysings na struktuurplanne te verwyder; om voorsiening te maak dat 'n benutting of 'n ontwikkeling van grond wat nie in stryd is met die tersaaklike hoofdoelwitte en oogmerke van die toepaslike ruimtelike ontwikkelingsraamwerk of dit ondermyn nie, geag word in ooreenstemming met daardie raamwerk te wees; om voorsiening te maak vir munisipaliteite om 'n geldigheids-tydperk as 'n voorwaarde vir die goedkeuring van 'n hersonering, 'n onderverdeling, 'n konsolidering of 'n afwyking op te stel; om anders voorsiening te maak ten opsigte van aansoeke om onderverdeling; om anders voorsiening te maak vir die oorweging van aansoeke vir die opheffing, opskorting of wysiging van 'n beperkende voorwaarde; om uitdruklik voorsiening te maak vir 'n munisipaliteit om die voorsiening van inklusiewe behuising as 'n voorwaarde van 'n grondgebruik-goedkeuring in te sluit; om die vereiste te skrap dat 'n aansoeker in 'n grondgebruikaansoek die toestemming van 'n verbandhouer moet indien, indien van toepassing; om anders voorsiening te maak vir die publikasie en betekening van kennisgewings oor aansoeke wat 'n munisipaliteit oorweeg ingevolge die Wet of enige ander wet wat grondgebruikbeplanning reguleer; om anders voorsiening te maak vir die gevalle wanneer, en teen wanneer, die Departementshoof kommentaar moet lewer op 'n grondgebruikaansoek; om die tydperk waarbinne 'n staatsinstelling kommentaar moet lewer op 'n grondgebruikaansoek te verminder; om anders voorsiening te maak vir die kennisgewing van persone en die publiek van 'n besluit oor 'n grondontwikkelingsaansoek deur 'n munisipaliteit; om anders voorsiening te maak vir die kennisgewingsproses van besluite wat die Departementshoof oor grondgebruikaansoeke neem; om anders voorsiening te maak wanneer die Provinsiale Minister 'n voorwaarde met betrekking tot 'n noodmagtiging om 'n vrystelling van bepalings van die Wet toestaan of wysig; om voorsiening te maak vir munisipaliteite om aansoeke om onderverdeling of konsolidering wat voortspruit uit die daarstelling van 'n ontwikkelingskema vry te stel van bepalings wat andersins van toepassing is op aansoeke om onderverdeling of konsolidering; om tekstuele verbeteringe aan artikel 61(2)(e) aan te bring; om anders voorsiening te maak vir geïntegreerde prosedures en besluite; om voorsiening te maak vir oorgangsbepalings; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

WORD DAAR BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

Wysiging van artikel 1 van Wet 3 van 2014

1. Artikel 1 van die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (die Hoofwet), word gewysig deur—

(a) die volgende woordoms krywing na die woordoms krywing van “ingenieursdiens” in te voeg:

“ **‘inklusiewe behuising’** beteken ’n ruimtelik geteikende meganisme wat berus by die regulatoriese stelsel van ontwikkelingsbeplanningstoestemmings ten einde eiendomsontwikkelaars te verplig om bekostigbare behuising, te koop of te huur, binne hul ontwikkeling te verskaf.”;

(b) die woordoms krywing van “beperkende voorwaarde” deur die volgende woordoms krywing te vervang:

“ **‘beperkende voorwaarde’** het die betekenis wat daaraan toegeken is in die Wet op Ruimtelike Beplanning en Grondgebruikbestuur.”; en

(c) die volgende woordoms krywing na die woordoms krywing van “Wet op Minder Formele Dorpstigting” in te voeg:

“ **‘Wet op Ruimtelike Beplanning en Grondgebruikbestuur’** beteken die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 16 van 2013).”.

Wysiging van artikel 10 van Wet 3 van 2014

2. Artikel 10 van die Hoofwet word gewysig deur subartikel (1) deur die volgende subartikel te vervang—

“(1) ’n Munisipaliteit moet aan artikel 11 voldoen wanneer hy sy munisipale ruimtelike ontwikkelingsraamwerk of ’n gewysigde munisipale ruimtelike ontwikkelingsraamwerk ingevolge die Munisipale Stelselwet aanneem [**of wysig**].”

Wysiging van artikel 11 van Wet 3 van 2014

3. Artikel 11 van die Hoofwet word gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

“**Aanneming [of wysiging] van munisipale ruimtelike ontwikkelingsraamwerke of gewysigde munisipale ruimtelike ontwikkelingsraamwerke**”; en

- (b) deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang—

“Die prosesse aangeneem deur ’n munisipaliteit ingevolge artikels 28 en 34 van die Munisipale Stelselwet in verband met die aanneming [of wysiging] van sy munisipale ruimtelike ontwikkelingsraamwerk of gewysigde munisipale ruimtelike ontwikkelingsraamwerk moet voorsiening maak vir—”.

Wysiging van artikel 13 van Wet 3 van 2014

4. Artikel 13 van die Hoofwet word gewysig—

- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) moet ’n konsep- munisipale ruimtelike ontwikkelingsraamwerk of konsep-[wysiging van ’n] gewysigde munisipale ruimtelike ontwikkelingsraamwerk vir skriftelike kommentaar by die Provinsiale Minister indien”; en

- (b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) mag [die munisipaliteit] nie sy munisipale ruimtelike ontwikkelingsraamwerk [aanneem] of ’n gewysigde munisipale ruimtelike ontwikkelingsraamwerk aanneem [wysiging daarvan goedkeur] totdat—”.

Wysiging van artikel 14 van Wet 3 van 2014

5. Artikel 14 van die Hoofwet word gewysig—

- (a) deur paragraaf (a) deur die volgende paragraaf te vervang:

“(a) ’n skriftelike kennisgewing van die besluit om ’n munisipale ruimtelike ontwikkelingsraamwerk of ’n gewysigde munisipale ruimtelike ontwikkelingsraamwerk aan te neem [of te wysig], tesame met die redes vir die besluit;”; en

- (b) deur paragraaf (b) deur die volgende paragraaf te vervang:

“(b) die aangeneem [of gewysigde] munisipale ruimtelike ontwikkelingsraamwerk of gewysigde munisipale ruimtelike ontwikkelingsraamwerk;”; en

Wysiging van artikel 19 van Wet 3 van 2014

6. Artikel 19 van die Hoofwet word gewysig—

- (a) deur die opskrif deur die volgende opskrif te vervang:

“**Voldoening aan of bestaanbaarheid met, en afwyking van, ruimtelike ontwikkelingsraamwerke [of struktuurplanne]**”;

- (b) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Indien ’n ruimtelike ontwikkelingsraamwerk [of struktuurplan] spesifiek voorsiening maak vir die aanwending of ontwikkeling van grond soos voorgestel in ’n grondgebruikaansoek of ’n grondontwikkelingsaansoek, word die voorgestelde aanwending of ontwikkeling geag te voldoen aan daardie ruimtelike ontwikkelingsraamwerk [of struktuurplan].”;

(c) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Indien ’n ruimtelike ontwikkelingsraamwerk **[of strukturplan]** nie spesifiek voorsiening maak vir die aanwending of ontwikkeling van grond soos voorgestel in ’n grondgebruikaansoek of grondontwikkelingsaansoek nie, maar die voorgestelde aanwending of ontwikkeling is nie in stryd met of nie die hoofdoelwitte en oogmerke van **[die doel van die tersaaklike aanwysing in]** die ruimtelike ontwikkelingsraamwerk **[of strukturplan]** ondermyn nie, word die voorgestelde aanwending of ontwikkeling geag bestaanbaar te wees met daardie ruimtelike ontwikkelingsraamwerk **[of strukturplan]**.”; en

(d) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Indien die voorgestelde aanwending of ontwikkeling van grond in ’n grondgebruikaansoek of grondontwikkelingsaansoek nie voldoen aan **[die tersaaklike aanwysing vir die aanwending van grond in]** ’n **[toepaslike]** ruimtelike ontwikkelingsraamwerk **[of strukturplan]** en nie daarmee bestaanbaar is nie, verskil die voorgestelde aanwending of ontwikkeling van daardie ruimtelike ontwikkelingsraamwerk **[of strukturplan]**.”

Wysiging van artikel 35 van Wet 3 van 2014

7. Artikel 35 van die Hoofwet word gewysig deur subartikel (3) deur die volgende subartikel te vervang—

“(3) Wanneer ’n munisipaliteit ’n grondgebruikaansoek vir ’n hersonering, afwyking of vergunningsgebruik goedkeur, moet die munisipaliteit dit oorweeg om ’n geldigheidstydperk vir die goedkeuring as ’n voorwaarde vir die goedkeuring op te lê.”

Wysiging van artikel 36 van Wet 3 van 2014

8. Artikel 36 van die Hoofwet word gewysig—

(a) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) ’n Munisipaliteit moet **[minstens die volgende vereis]** ten opsigte van ’n aansoek om onderverdeling van die bevoegde persoon vereis om ’n onderverdelingsplan in te dien waarop die volgende aangetoon word:

(a) **[indien ’n verandering in sonering betrokke is dat die aansoek verband hou met grond wat gesoneer is, of gesoneer sal word, vir ’n doel wat onderverdeling insluit] die ligging van voorgestelde grondeenhede, openbare plekke en grond wat vir openbare doeleindes benodig word;** en

(b) **[die indiening van ’n onderverdelingsplan waarop die volgende aangetoon word:] die voorgestelde sonerings ten opsigte van die voorgestelde grondeenhede.**

- [(i) die ligging van voorgestelde grondeenhede, openbare plekke en grond wat vir openbare doeleindes benodig word; en**
- (ii) die voorgestelde sonerings ten opsigte van die voorgestelde grondeenhede.]”;**

(b) deur subartikel (6) deur die volgende subartikel te vervang:

“(6) Wanneer ’n munisipaliteit [**’n hersonering vir ’n doel wat onderverdeling insluit goedkeur, moet hy voorwaardes oplê wat vir minstens die volgende voorsiening maak:] ’n aansoek om onderverdeling** oorweeg wat grond insluit wat die aansoeker beoog om verder te onderverdeel of in die toekoms te onderverdeel, mag die munisipaliteit slegs die aansoek goedkeur indien daardie grond gesoneer is, of gesoneer gaan word, vir ’n doel wat onderverdeling insluit.

- [(a) digtheidsvereistes;**
- (b) hoof- grondgebruike en die omvang daarvan; en**
- (c) ’n uitvoerige faseringsplan of ’n raamwerk wat die volgende insluit:**
 - (i) hoof- vervoerroetes;**
 - (ii) hoof- grondgebruike;**
 - (iii) grootmaatinfrastruktuur;**
 - (iv) vereistes van staatsorgane;**
 - (v) vereistes ten opsigte van openbare oop ruimtes; en**
 - (vi) fisiese ontwikkelingsbeperkings.]”;**

(c) deur die volgende subartikel na subartikel (6) in te voeg:

“(6A) Wanneer ’n munisipaliteit ’n hersonering soos beoog in subartikel (6) goedkeur, moet hy voorwaardes oplê wat vir minstens die volgende voorsiening maak:

- (a) digtheidsvereistes;
- (b) hoof- grondgebruike en die omvang daarvan; en
- (c) ’n uitvoerige faseringsplan of ’n raamwerk wat die volgende insluit—
 - (i) hoof- vervoerroetes;
 - (ii) hoof- grondgebruike;
 - (iii) grootmaatinfrastruktuur;
 - (iv) vereistes van staatsorgane;
 - (v) vereistes ten opsigte van openbare oop ruimtes; en
 - (vi) fisiese ontwikkelingsbeperkings.”;

(d) deur paragraaf (d) van subartikel (8) deur die volgende paragraaf te vervang:

“(d) registrasie van die oordrag van eienskap ingevolge die Registrasie van Aktes Wet van die grondeenheid wat op die diagram aangetoon word of van minstens een nuwe grondeenheid aangetoon op die algemene plan, of die aansoeker moet ’n sertifikaat van geregistreerde titel ingevolge die Registrasie van Aktes Wet indien wat verklaar dat die grondeenheid wat op die diagram aangetoon word of minstens een nuwe grondeenheid wat op die algemene plan aangetoon word, geregistreer is.”;

(e) deur subartikel (9) deur die volgende subartikel te vervang:

“(9) ’n Munisipaliteit moet, ooreenkomstig die minimum standarde soos voorgeskryf kan word—

(a) oorweeg om, as ’n voorwaarde van ’n goedkeuring van ’n onderverdeling, ’n geldigheidstydperk vir die verval van die goedkeuring op te lê indien ’n aansoeker versuim om binne die geldigheidstydperk aan die vereistes bedoel in subartikel (8) te voldoen; en

(b) voorsiening maak vir die bevestiging van die onderverdeling, met inbegrip van die bevestiging van die sonerings en die vestiging van eienaarskap van die openbare plekke in die munisipaliteit, by of na voldoening aan die vereistes bedoel in subartikel (8).”

Wysiging van artikel 38 van Wet 3 van 2014

9. Artikel 38 van die Hoofwet word gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Wanneer ’n munisipaliteit ’n konsolidering van grondeenhede goedkeur, moet die munisipaliteit die oplegging van ’n geldigheidstydperk vir die goedkeuring as ’n voorwaarde vir die verlening van die goedkeuring oorweeg.”

Wysiging van artikel 39 van Wet 3 van 2014

10. Artikel 39 van die Hoofwet word gewysig—

(a) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:

“(b) enige ander persoon wie se regte of regmatige verwagtinge wesenlik en nadelig geraak sal word deur die goedkeuring van die aansoek.”;

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Wanneer ’n munisipaliteit ’n beperkende voorwaarde uit eie beweging ophef, opskort of wysig, moet die munisipaliteit aan subartikel (2) en artikel 43 voldoen **[en minstens die aangeleenthede bedoel in artikel 49(a) tot (e) in ag neem]**.”; en

(c) deur die skraping van subartikel (5).

Wysiging van artikel 40 van Wet 3 van 2014

11. Artikel 40 van die Hoofwet word gewysig—

(a) deur die punt na paragraaf (q) van subartikel (2) deur ’n kommapunt te vervang;

(b) deur die byvoeging van die volgende paragraaf na paragraaf (q) van subartikel (2)—

“(r) inklusiewe behuising.”.

Vervanging van artikel 42 van Wet 3 van 2014

12. Artikel 42 van die Hoofwet word deur die volgende artikel vervang:

“42. ’n Aansoeker in ’n grondgebruikaansoek moet ten minste die volgende by die munisipaliteit indien ten opsigte van die betrokke grond:

(a) ’n afskrif van die tersaaklike uittreksel van die goedgekeurde algemene plan of diagram; en

(b) ’n afskrif van die titelakte.”.

Vervanging van artikel 43 van Wet 3 van 2014

13. Artikel 43 van die Hoofwet word deur die volgende artikel vervang:

“**Publisering van kennisgewings**

43. (1) Wanneer ’n munisipaliteit van voorneme is om ’n aansoek te oorweeg ingevolge hierdie Wet of enige ander wet wat grondgebruikbeplanning reguleer, waarvan die besluit waarskynlik die regte van die publiek of die belange van die gemeenskap wesenlik en nadelig sal raak, moet hy—

- (a) gepaste stappe doen om die aansoek te kommunikeer aan diegene wat waarskynlik wesenlik en nadelig daardeur geraak sal word en kommentaar van hulle versoek;
- (b) enige kommentaar wat ontvang is, oorweeg; en
- (c) besluit om die aansoek goed te keur of nie, met of sonder veranderinge.

(2)(a) Inligting aangaande die aansoek moet by wyse van kennisgewing gepubliseer word indien die aansoek—

- (i) die regte van die publiek regoor die Republiek van Suid-Afrika raak, in die *Staatskoerant* en ’n koerant wat versprei word, of in koerante wat gesamentlik regoor die Republiek van Suid-Afrika versprei word,;
- (ii) die regte van slegs die publiek in die Provinsie raak, in die *Provinsiale Koerant* en ’n koerant wat versprei word, of in koerante wat gesamentlik regoor die Provinsie versprei word,; of
- (iii) die regte van die publiek of die belange van die gemeenskap in slegs ’n spesifieke gebied raak, in ’n koerant wat in daardie spesifieke gebied versprei word.

(b) ’n Kennisgewing wat ingevolge paragraaf (a) gepubliseer word, moet taalvoorkeure en -gebruik in die betrokke gebied in ag neem.

(3) ’n Kennisgewing gepubliseer ingevolge subartikel (2) moet—

- (a) voldoende inligting oor die aansoek insluit om lede van die publiek in staat te stel om betekenisvolle kommentaar in te dien, insluitend minstens—

- (i) inligting oor die aard en doel van die aansoek; en
 - (ii) 'n beskrywing van die grondeenheid of grondeenhede waarop die aansoek betrekking het;
- (b) 'n plek of plekke spesifiseer waar, en die ure waarbinne, verdere inligting aangaande die aansoek vir openbare ondersoek beskikbaar sal wees;
- (c) 'n uitnodiging aan lede van die publiek insluit om skriftelike kommentaar in verband met die aansoek by die munisipaliteit in te dien voor of op 'n datum aangedui in die kennisgewing, welke datum nie vroeër as 30 dae vanaf die datum van publikasie van die kennisgewing mag wees nie;
- (d) 'n waarskuwing insluit dat kommentaar wat ná die sluitingsdatum ontvang word, verontagsaam mag word;
- (e) die naam en amptelike titel aandui van die persoon aan wie enige kommentaar gestuur of by afgelewer moet word, en daardie persoon se—
- (i) werk-, pos-, straat- en e-posadres; en
 - (ii) werktelefoonnommer;
- (f) spesifiseer dat die aansoeker en enige persoon wat 'n kommentaar op die aansoek ingedien het, van die besluit oor die aansoek in kennis gestel sal word, en dat die besluit op die munisipaliteit se webtuiste gepubliseer sal word, soos beoog in artikel 50(1).
- (4) 'n Kennisgewing wat ingevolge subartikel (2)(a)(i) en (ii) in 'n koerant gepubliseer word, mag niteenstaande subartikel (3) slegs die volgende bevat—
- (a) 'n bondige verklaring oor die aansoek;
 - (b) die naam, amptelike titel, kontaktelefoonnommer, e-posadres en fisiese adres van die persoon by wie verdere inligting oor die aansoek en die administratiewe prosedure verkry kan word; en
 - (c) 'n nota dat 'n meer breedvoerige kennisgewing aangaande die aansoek in die *Staatskoerant* of *Provinsiale Koerant* verskyn, na gelang van die geval.
- (5) Toegang tot verdere inligting soos beoog in subartikel (3)(b) moet toegelaat word vanaf die datum waarop die kennisgewing gepubliseer word tot die sluitingsdatum vir kommentaar, gedurende gewone kantoorure.
- (6)(a) Ten einde te verseker dat die aansoek onder die aandag van die publiek gebring word, kan die munisipaliteit ook die inligting waarna in subartikel (3) of (4) verwys word, deur kommunikasie deur middel van die gedrukte of elektroniese media, insluitend persvystellings, perskonferensies, die internet, radio- of televisie-uitsendings, plakkaat, pamflette, aankondigings oor 'n megafoon, publikasies op gemeenskapskennisgewingsborde, e-posse of sosiale media.
- (b)(i) Die munisipaliteit kan 'n kennisgewing op die betrokke grond laat vertoon.
- (ii) 'n Kennisgewing beoog in subparagraaf (i) moet aan subartikel (3) voldoen en vir die kennisgewingstydperk leesbaar bly.

(7)(a) Indien die aansoek wesenlik en nadelig die regte van lede van 'n spesifieke gemeenskap kan raak wat bestaan uit 'n betekenisvolle aantal mense wat nie kan lees of skryf nie of wat andersins spesiale bystand nodig, moet die munisipaliteit spesiale stappe doen om lede van die gemeenskap se menings in te win.

(b) Spesiale stappe ingevolge paragraaf (a) kan die volgende insluit—

(i) die hou van openbare of groepsvergaderings waar die aansoek verduidelik, vrae beantwoord en menings van die gehoor genotuleer word;

(ii) 'n opname van openbare mening in die gemeenskap oor die aansoek; of

(iii) voorsiening van 'n sekretariële fasiliteit in die gemeenskap waar lede van die gemeenskap hul mening oor die aansoek kan uitspreek.

(8)(a) Die munisipaliteit kan die sluitingsdatum vir kommentaar beoog in subartikel (3)(c) verleng.

(b) Enige verlenging van die sluitingsdatum met meer as een maand, moet gepubliseer word by wyse van 'n kennisgewing soos voorgeskryf in subartikel (2) en, waar toepaslik, in subartikel (6).

(9)(a) Die munisipaliteit—

(i) kan weier om kommentaar wat na die sluitingsdatum vir kommentaar ontvang is, te aanvaar; of

(ii) kan, maar is nie verplig om, versoeke om kondonering van die laat indiening van kommentaar toe te staan nie.

(b) 'n Versoek om kondonering kan toegestaan word op grond van goeie redes aangevoer deur die persoon wat die kommentaar ingedien het indien daardie kondonering nie—

(i) tot onnodige vertragings lei nie; of

(ii) andersins tot die nadeel van die openbare belang is nie.

(10)(a) Indien dit in die omstandighede redelik en regverdigbaar is, kan die munisipaliteit van die bepalings van hierdie artikel afwyk.

(b) By die bepaling of 'n afwyking soos beoog in paragraaf (a) redelik en regverdigbaar is, moet die munisipaliteit alle tersaaklike faktore in ag neem, insluitend—

(i) die oogmerke van hierdie Wet, en enige ander toepaslike wet wat grondgebruikbeplanning reguleer;

(ii) die aard en doel van die aansoek en noodsaaklikheid dat die aansoek goedgekeur word;

(iii) die waarskynlike gevolg van die goedkeuring van die aansoek;

(iv) die dringendheid van goedkeuring van die aansoek of die dringendheid van die aangeleentheid; en

(v) die noodsaaklikheid om 'n doeltreffende administrasie en goeie bestuur te bevorder.

(11) Die publiseer van 'n kennisgewing beoog in subartikel (2) onthef nie 'n munisipaliteit van die verpligting om 'n kennisgewing te laat beteken in die gevalle beoog in artikel 44(1) nie.”

Vervanging van artikel 44 van Wet 3 van 2014

14. Artikel 44 van die Hoofwet word deur die volgende artikel vervang:

Betekening van kennisgewings

44. (1) Wanneer 'n munisipaliteit van voorneme is om 'n aansoek te oorweeg ingevolge hierdie Wet of enige ander wet wat grondgebruik-bepanning reguleer, waarvan die besluit waarskynlik die regte of regmatige verwagtinge van enige persoon wesenlik en nadelig sal raak, moet hy—

- (a) 'n kennisgewing aangaande die aansoek op daardie persoon laat beteken en kommentaar van daardie persoon versoek;
- (b) enige kommentaar oorweeg wat ontvang word; en
- (c) besluit om die aansoek goed te keur of nie, met of sonder veranderinge.

(2) Die kennisgewing beoog in subartikel (1)(a) moet—

(a) voldoende inligting oor die aansoek insluit om die persoon in staat te stel om betekenisvolle kommentaar in te dien, insluitend minstens—

- (i) inligting oor die aard en doel van die aansoek; en
- (ii) 'n beskrywing van die grondeenheid of grondeenhede waarop die aansoek betrekking het;

(b) 'n plek of plekke aandui waar, en die ure waarbinne, verdere inligting aangaande die aansoek ter insae beskikbaar sal wees;

(c) 'n uitnodiging aan die persoon insluit om skriftelike kommentaar ten opsigte van die aansoek by die munisipaliteit in te dien voor of op 'n datum aangedui in die kennisgewing, welke datum nie vroeër as 30 dae vanaf die datum van die betekening van die kennisgewing mag wees nie;

(d) 'n waarskuwing insluit dat kommentaar wat na die sluitingsdatum ontvang word, verontagsaam mag word;

(e) die naam en amptelike titel aandui van die persoon aan wie enige kommentaar gestuur of by afgelewer moet word, en daardie persoon se—

- (i) werk-, pos-, straat- en e-posadres;
- (ii) werktelefoonnommer; en

(f) aandui dat die aansoeker en enige persoon wat 'n kommentaar op die aansoek ingedien het van die besluit ten opsigte van die aansoek in kennis gestel sal word, en dat die besluit op die munisipaliteit se webtuiste gepubliseer sal word, soos beoog in artikel 50(1), en moet die taalvoorkeure- en gebruik in die betrokke gebied in ag neem.

(3) Toegang tot verdere inligting soos beoog in subartikel (2)(b) moet toegelaat word vanaf die datum waarop die kennisgewing beteken

word tot die sluitingsdatum vir kommentaar, gedurende gewone kantoorure.

(4) Die munisipaliteit kan, na sy goeddunke, ook 'n persoon bedoel in subartikel (1) 'n geleentheid gee om—

(a) bystand en, in ernstige of komplekse gevalle, regsverteenvoerding te verkry;

(b) inligting en argumente voor te lê en te betwis; en

(c) persoonlik te verskyn.

(5)(a) Indien die aansoek die regte of regmatige verwagtinge van 'n persoon wat nie kan lees of skryf nie of wat andersins spesiale bystand benodig, wesenlik en nadelig kan raak—

(i) moet die kennisgewing inligting insluit wat uiteengesit is op 'n wyse wat die aansoek onder die aandag van daardie persoon sal bring; en

(ii) moet die munisipaliteit spesiale stappe doen om die menings van daardie persoon in te win .

(b) Spesiale stappe ingevolge paragraaf (a)(ii) kan insluit—

(i) die hou van 'n vergadering waar die aansoek verduidelik, vrae beantwoord en menings van daardie persoon genotuleer word; of

(ii) die voorsiening van 'n sekretariële fasiliteit om die betrokke persoon te help om sy/haar mening oor die aansoek te lug.

(6)(a) Die munisipaliteit kan die sluitingsdatum vir kommentaar beoog in subartikel (2)(c) verleng.

(b) Die munisipaliteit moet elke persoon wie se regte of regmatige verwagtinge wesenlik en nadelig deur die aansoek geraak kan word, inlig indien die sluitingsdatum met meer as een maand verleng word deur 'n verdere kennisgewing te beteken, soos voorgeskryf in subartikel (1)(a).

(7)(a) Die munisipaliteit—

(i) kan weier om kommentaar wat na die sluitingsdatum vir kommentaar ontvang is, te oorweeg; of

(ii) kan, maar is nie verplig om, versoeke om kondonering van die laat indiening van kommentaar toe te staan nie.

(b) 'n Versoek om kondonering kan toegestaan word op grond van goeie redes aangevoer deur die persoon wat die kommentaar ingedien het indien daardie kondonering nie—

(i) tot onnodige verdragings lei nie; of

(ii) andersins die openbare belang benadeel nie.

(8)(a) Indien dit in die omstandighede redelik en regverdigbaar is, kan die munisipaliteit van die bepalings van hierdie artikel afwyk.

(b) By die vasstelling of 'n afwyking soos beoog in paragraaf (a) redelik en regverdigbaar is, moet die munisipaliteit alle tersaaklike faktore in ag neem, insluitend die volgende—

- (i) die oogmerke van hierdie Wet, en enige ander toepaslike wet wat grondgebruikbeplanning reguleer;
- (ii) die aard en doel van die aansoek en noodsaaklikheid dat die aansoek goedgekeur word;
- (iii) die waarskynlike gevolg van die goedkeuring van die aansoek;
- (iv) die dringendheid van die goedkeuring van die aansoek of die dringendheid van die aangeleentheid; en
- (v) die noodsaaklikheid om 'n doeltreffende administrasie en goeie bestuur te bevorder."

Wysiging van artikel 45 van Wet 3 van 2014

15. Artikel 45 van die Hoofwet word gewysig—

(a) deur die vervanging van paragraaf (a) van subartikel (1) deur die volgende paragraaf:

“(a) ’n ontwikkeling [**buite**] wat afwyk van die munisipaliteit se [**bepalende buitenste grens van stedelike uitbreiding soos weergegee in sy**] munisipale ruimtelike ontwikkelingsraamwerk”;

(b) deur die skraping van paragraaf (b) van subartikel (1);

(c) deur die skraping van paragraaf (c) van subartikel (1);

(d) deur die vervanging van paragraaf (e) van subartikel (1) deur die volgende paragraaf:

“(e) ontwikkeling [**soos voorgeskryf**] wat ’n provinsiale funksionele gebied raak;” en

(e) deur die vervanging van subartikel (2) deur die volgende subartikel:

“(2) Die Departementshoof moet, binne [**60**] 30 dae van ’n versoek om kommentaar beoog in subartikel (1), skriftelik provinsiale kommentaar aan die munisipale bestuurder lewer.”.

Wysiging van artikel 47 van Wet 3 van 2014

16. Artikel 47 van die Hoofwet word gewysig deur in subartikel (1) die uitdrukking “60” deur die uitdrukking “30” te vervang.

Wysiging van artikel 49 van Wet 3 van 2014

17. Artikel 49 van die Hoofwet word gewysig—

(b) deur die skraping van paragraaf (b).

Vervanging van artikel 50 van Wet 3 van 2014

18. Artikel 50 van die Hoofwet word deur die volgende artikel vervang:

“Kennisgewing van munisipale besluite

50. (1) ’n Munisipaliteit moet, nadat hy ’n besluit beoog in hierdie Hoofstuk geneem het, minstens—

(a) die aansoeker en enige persoon wat ’n kommentaar oor die aansoek ingedien het skriftelik in kennis stel van die besluit en redes vir die besluit, en sodanige persone inlig oor enige reg tot appèl, waar van toepassing; en

(b) die besluit vir ’n tydperk van minstens 90 dae op sy webtuiste publiseer en, in sodanige publikasie, lede van die publiek wie se regte weselik en nadelig deur die besluit geraak word, in kennis stel van die besluit, redes vir die besluit en die reg tot appèl.

(2) Die kennisgewings beoog in subartikel (1) moet ook, waar van toepassing—

(a) die tydperk bepaal waarbinne die appèl, indien enige, aangeteken moet word;

(b) die naam en adres vermeld van die persoon by wie ’n prosedure vir appèl aangeteken gemaak moet word; en

(c) enige ander formele vereistes ten opsigte van die verrigtinge vir appèl uiteensit.”

Wysiging van artikel 51 van Wet 3 van 2014

19. Artikel 51 van die Hoofwet word gewysig deur die volgende subartikel by te voeg:

“(5) Daar is niks in hierdie artikel wat ’n persoon verbied om verrigtinge vir die geregtelike hersiening van ’n besluit soos beoog in artikel 6 van die “Promotion of Administrative Justice Act, 2000” (Wet 3 van 2000) in te stel nie.”

Wysiging van artikel 54 van Wet 3 van 2014

20. Artikel 54 van die Hoofwet word gewysig deur die vervanging van subartikel (7) deur die volgende subartikel—

“(7) Die Departementshoof, binne 21 dae van sy of haar besluit oor ’n grondontwikkelingsaansoek—

(a) moet die besluit vir ’n tydperk van minstens 90 dae op die Departement se webtuiste publiseer en, in sodanige publikasie, lede van die publiek wie se regte weselik en nadelig deur die besluit geraak word, in kennis stel van die besluit en redes vir die besluit en die reg tot appèl;

(b) kan toelaat dat die publiek in kennis gestel word van die besluit en redes vir die besluit deur ’n kennisgewing te publiseer in koerante wat in die betrokke gebied versprei word en in die *Provinsiale Koerant*, deur kommunikasie in die gedrukte of elektroniese media, insluitend persverklarings, perskonferensies, radio- of televisie-uitsendings, plakkate, pamflette, aankondigings oor ’n megafoon, publikasies op

gemeenskapskennisgewingborde, e-posse of sosiale media, of by wyse van 'n kombinasie van sodanige metodes; en
 (c) moet skriftelik die aansoeker en enige persoon wat 'n beswaar teen die aansoek aangeteken het in kennis stel van die besluit en redes vir die besluit, en sodanige persone inlig oor enige reg tot appèl, waar van toepassing."

Wysiging van artikel 55 van Wet 3 van 2014

21. Artikel 55 van die Hoofwet word gewysig deur die skraping van paragraaf (ii) in subartikel (c).

Wysiging van artikel 60 van Wet 3 van 2014

22. Artikel 60(5) van die Hoofwet word gewysig—
- (a) deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang—
 “(5) Die Provinsiale Minister moet so gou as wat dit redelikerwys moontlik is nadat 'n magtiging kragtens subartikel (2) verleen, of 'n voorwaarde van so 'n magtiging kragtens subartikel (6) gewysig of ingetrek is—”;
- (b) deur paragraaf (a) in subartikel (5) te vervang deur die volgende paragraaf:
 “(a) [binne 48 uur van 'n magtiging kragtens subartikel (2), of 'n wysiging of 'n intrekking van 'n voorwaarde van so 'n magtiging kragtens subartikel (6),] die Provinsiale Kabinet daarvan in kennis stel en 'n kennisgewing daarvan in die *Provinsiale Koerant* laat publiseer en”; en
- (c) deur paragraaf (b) in subartikel (5) te vervang deur die volgende paragraaf:
 “[binne 14 dae van die magtiging of die wysiging of intrekking van die voorwaarde,] 'n verslag daarvan by die Provinsiale Kabinet indien, indien die Provinsiale Minister dit onder die omstandighede nodig ag.”

Wysiging van artikel 61 van Wet 3 van 2014

23. Artikel 61 van die Hoofwet word gewysig—
- (a) deur die volgende subparagraaf by te voeg na subparagraaf (v) van paragraaf (d) in subartikel (2):
 “(vi) die instelling of wysiging van 'n ontwikkelingskema soos omskryf in artikel 1(1) van die Wet op Deeltitels, 1986 (Wet 95 van 1986)”; en
- (b) deur die vervanging van subparagraawe (i) en (ii) van paragraaf (e) in subartikel (2) deur onderskeidelik die volgende subparagraawe:
 “(i) in die geval van 'n onderverdeling of 'n konsolidering, nie tot stedelike uitbreiding aanleiding gee nie; en
 (ii) in die geval van 'n onderverdeling, goedkeuring vereis ingevolge wetgewing wat die onderverdeling van landbougrond reguleer; of”.

Wysiging van artikel 66 van Wet 3 van 2014

24. Artikel 66 van die Hoofwet word gewysig—

- (a) deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te vervang:
 “(a) die aanneming [**of wysiging**] van ’n munisipale ruimtelike ontwikkelingsraamwerk of ’n gewysigde munisipale ruimtelike ontwikkelingsraamwerk”;
- (b) deur paragraaf (a) in subartikel (4) deur die volgende paragraaf te vervang:
 “(a) besluit oor die aanneming [**of wysiging**] van ’n provinsiale ruimtelike ontwikkelingsraamwerk, ’n gewysigde provinsiale ruimtelike ontwikkelingsraamwerk of provinsiale streeksruimtelike ontwikkelingsraamwerk”;
- (c) deur paragraaf (b) in subartikel (4) deur die volgende paragraaf te vervang:
 “(b) kommentaar beoog in artikel 12(4) of 13(2) op die aanneming [**of wysiging**] van ’n munisipale ruimtelike ontwikkelingsraamwerk of ’n gewysigde munisipale ruimtelike ontwikkelingsraamwerk verskaf”.

Wysiging van artikel 67 van Wet 3 van 2014

25. Artikel 67 van die Hoofwet word gewysig—

- (a) deur subartikel (5) deur die volgende subartikel te vervang:
 “(5) ’n Munisipaliteit of die Departementshoof kan oor ’n aansoek wat ook goedkeuring ingevolge ander wetgewing vereis, besluit op grond van ’n proses wat kragtens daardie wetgewing voorgeskryf word, maar slegs indien [**daardie proses aan die vereistes van die toepaslike verordeninge en hierdie Wet voldoen**] dit redelik en regverdigbaar is om dit te doen.”;
- (b) deur die volgende subartikel na subartikel (5) in te voeg:
 “(5A) By die bepaling of besluitneming oor ’n aansoek op grond van ’n proses voorgeskryf ingevolge ander wetgewing soos beoog in subartikel (6) redelik en regverdigbaar is, moet die munisipaliteit of Departementshoof alle tersaaklike faktore in ag neem, insluitend die volgende—
 (a) die oogmerke van hierdie Wet;
 (b) die aard en doel van die aansoek en noodsaaklikheid dat die aansoek goedgekeur word;
 (c) die waarskynlike gevolg van die goedkeuring van die aansoek;
 (d) die dringendheid van die goedkeuring van die aansoek of die dringendheid van die aangeleentheid; en
 (e) die noodsaaklikheid om doeltreffende administrasie en goeie bestuur te bevorder.”.
- (c) deur subartikel (6) deur die volgende subartikel te vervang:
 “(6) Die Departementshoof kan oor ’n aansoek beoog in artikel 54 besluit op grond van ’n proses wat kragtens die verordeninge van die tersaaklike munisipaliteit voorgeskryf word, maar slegs indien [**daardie proses aan die**

vereistes van hierdie Wet voldoen] dit redelik en regverdigbaar is om dit te doen.”; en

(d) deur die volgende subartikel na subartikel (6) in te voeg;

“(6A) By die bepaling of besluitneming oor ’n aansoek op grond van ’n proses voorgeskryf ingevolge ander wetgewing soos beoog in subartikel (6) redelik en regverdigbaar is, moet die munisipaliteit of Departementshoof alle tersaaklike faktore in ag neem, insluitend die volgende—

- (a) die oogmerke van hierdie Wet;
- (b) die aard en doel van die aansoek en noodsaaklikheid dat die aansoek goedgekeur word;
- (c) die waarskynlike gevolg van die goedkeuring van die aansoek;
- (d) die dringendheid van die goedkeuring van die aansoek of die dringendheid van die aangeleentheid; en
- (e) die noodsaaklikheid om ’n doeltreffende administrasie en goeie bestuur te bevorder.”.

Wysiging van artikel 68 van Wet 3 van 2014

26. Artikel 68 van die Hoofwet word gewysig—

(a) deur paragraaf (c) in subartikel (1) deur die volgende paragraaf te vervang:

“enige stappe te doen wat kragtens hierdie Wet gemagtig word om die [bepalings of] voorwaardes van ’n goedkeuring wat kragtens artikel 54 of 56(6) verleen is, af te dwing of om ’n oortreding daarvan of ’n oortreding van artikel 53(1) reg te stel.”

Wysiging van indeling van artikels van Wet 3 van 2014

27. Die indeling van artikels voor artikel 1 van die Hoofwet word gewysig—

(a) deur die vervanging van die verwysing na artikel 11 deur die volgende item:

“11. Aanneming [of wysiging] van munisipale ruimtelike ontwikkelingsraamwerke of gewysigde munisipale ruimtelike ontwikkelingsraamwerke”;

(b) deur die vervanging van die verwysing na artikel 19 deur die volgende item:

“19. Voldoening aan of bestaanbaarheid met, en afwyking van, ruimtelike ontwikkelingsraamwerke [of strukturplanne].”.

Oorgangsmatreëls

28. ’n Grondgebruikaansoek of grondontwikkelingsaansoek wat voor die inwerking-treding van hierdie Wet gedoen is en nie voor die inwerkingtreding van hierdie Wet gefinaliseer is nie, moet afgehandel word asof hierdie Wet nie van krag is nie.

Kort titel en inwerkingtreding

29. Hierdie Wet word die Wes-Kaapse Wysigingswet op Grondgebruikbeplanning, 2023, genoem en tree in werking op 'n datum wat deur die Premier bepaal word by proklamasie in die *Provinsiale Koerant*.

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE KONSEPWYSIGINGSWETSONTWERP OP GRONDGEBRUIKBEPLANNING, 2023

1. AGTERGROND

- 1.1. Die Wes-Kaapse Wysigingswetsontwerp op Grondgebruikbeplanning (“die Konsepwysigingswetsontwerp”) stel wysigings aan verskeie bepalings van die Wes-Kaapse Wet op Grondgebruikbeplanning (Wet 3 van 2014) (“die Wet”) voor. Die voorgestelde wysigings beoog om die regsraamwerk wat die Wet vir beplanning en ontwikkeling voorskryf te verbeter, en om rompslomp en oorregulering te verminder, in die lig van praktiese ervaring wat tydens die implementering van die Wet opgedoen is.
- 1.2. Die Wet is op 31 Maart 2014 bekragtig. Die inwerkingtreding van die Wet het vanaf 2015 tot 2016 tragsgewys plaasgevind ten opsigte van verskillende munisipaliteite.
- 1.3. Die Wet is gepromulgeer op ’n tydstip toe verskeie munisipaliteite in die Wes-Kaap nog besig was om verordeninge oor munisipale grondgebruikbeplanning aan te neem. Die Wet het verseker dat munisipaliteite tydens hierdie oorgangsfase van die wetshervormingsproses uitvoering gegee het aan sekere minimum vereistes en aan sekere minimum standarde voldoen het.
- 1.4. Sedert 2016 het alle munisipaliteite in die Wes-Kaap verordeninge aangeneem en geïmplementeer wat onder meer uitvoering gee aan daardie minimum vereistes en standarde. Die Wet is teen hierdie agtergrond hersien met inagneming van die ervaring van munisipaliteite. Om hierdie rede word die minimum vereistes en standarde in sommige gevalle heroorweeg en herformuleer, en in ander gevalle verslap om voorsiening te maak vir groter munisipale diskresie oor grondgebruikbeplanningsprosesse.
- 1.5. Sekere voorgestelde wysigings aan die Wet beoog om rompslomp en oorregulering te verminder, sekere bepalings verder duideliker te maak en tekstuele verbeteringe aan te bring, en om die Wet in ooreenstemming te bring met hedendaagse omstandighede deur byvoorbeeld sekere verwysings na struktuurplanne te verwyder ten einde die feit te weerspieël dat alle struktuurplanne nou by al die Wes-Kaapse munisipaliteite uitgefaseer is.

2. OOGMERKE VAN DIE KONSEPWYSIGINGSWETSONTWERP

Die oogmerke van die Wysigingswetsontwerp is om—

- 2.1. sekere woordskrywings in te voeg en te wysig;
- 2.2. buigsaamheid in te bring met betrekking tot verskeie aspekte van provinsiale regulering van munisipale beplanning, met inbegrip van waar ’n aansoek om onderverdeling van grond nie toekomstige of verdere onderverdeling beoog nie;
- 2.3. onnodige rompslomp en oorregulering uit te skakel, ook met betrekking tot provinsiale betrokkenheid by grondgebruikaansoeke;
- 2.4. die Wet in ooreenstemming te bring met die Wet op Plaaslike Regering: Munisipale Stelsels, (Wet 32 van 2000) (MSA), met betrekking tot die aanvaarding van gewysigde munisipale ruimtelike ontwikkelingsraamwerke;

- 2.5. oorbodige vereistes in die Wet te verwyder wat die opheffing van beperkende voorwaardes reguleer;
- 2.6. voorsiening te maak dat inklusiewe behuising as 'n voorwaarde by aansoekgoedkeurings ingesluit word;
- 2.7. groter diskresie aan munisipaliteite toe te sê oor die openbare oorlegpleging en ander prosesse wat 'n munisipaliteit mag volg voordat besluite oor grondgebruikaansoeke geneem word;
- 2.8. die administratiewe las te verminder wat ontstaan wanneer die Provinsiale Minister beoog om noodvrystellings en magtigings kragtens die Wet toe te staan; en
- 2.9. tekstuele verbeteringe aan te bring.

3. INHOUD VAN KONSEPWYSIGINGSWETSONTWERP

- 3.1. **Klousule 1** maak soos volg voorsiening vir die wysiging van die woordomsrywings in artikel 1 van die Wet:
 - 3.1.1. nuwe woordomsrywings word ingevoeg vir “inklusiewe behuising” en “Wet op Ruimtelike Beplanning en Grondgebruikbestuur”;
 - 3.1.2. die woordomskywing van “beperkende voorwaarde” word gewysig om dit in ooreenstemming te bring met die definisie in die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 16 van 2013) (SPLUMA), en om die dubbelsinnigheid en onsekerheid te verwyder wat geskep word deur die uitsluiting van serwitute in die definisie wat werklike of persoonlike regte skep;
- 3.2. **Klousule 2, 3, 4, 5 en 24** maak tegniese wysigings aan onderskeidelik artikels 10, 11, 13, 14 en 66 van die Wet, om die vereiste in die MSA te weerspieël wat munisipaliteite verplig om gewysigde munisipale ruimtelike ontwikkelingsraamwerke aan te neem.
- 3.3. **Klousule 6** wysig artikel 19 van die Wet om alle verwysings na struktuurplanne in die artikel te skrap. 'n Verdere wysiging word gemaak wat voorsiening maak vir 'n gebruik of ontwikkeling van grond voorgestel in 'n grondgebruikaansoek om geag te wees bestaanbaar met 'n ruimtelike ontwikkelingsraamwerk te wees indien dit nie strydig is met die hoofdoelwitte en oogmerke van die ruimtelike ontwikkelingsraamwerk of dit ondermyn nie. Hierdie wysiging stel munisipaliteite in staat om grondgebruikaansoeke goed te keur wat nie streng bestaanbaar is met die oogmerk van die betrokke aanwysing in die ruimtelike ontwikkelingsraamwerk nie, maar wat nie strydig is met, of nie die hoofdoelwitte en oogmerke daarvan ondermyn nie. Daarbenewens word 'n verdere wysiging aangebring wat bepaal dat 'n voorgestelde gebruik of ontwikkeling van grond verskil van 'n ruimtelike ontwikkelingsraamwerk indien dit nie in ooreenstemming is met of nie voldoen aan 'n ruimtelike ontwikkelingsraamwerk nie.
- 3.4. **Klousule 7** wysig artikel 35 van die Wet om te bepaal dat 'n munisipaliteit die oplegging van 'n geldigheidstydperk as 'n voorwaarde van goedkeuring moet oorweeg wanneer dit 'n hersonering, afwykings- of vergunningsgebruik goedkeur. Die rede hiervoor is dat die Wet nie meer 'n outomatiese vervalklousule bevat nie, en 'n geldigheidstydperk sal dus as 'n aparte voorwaarde van goedkeuring opgelê moet word.

- 3.5. **Klousule 8** wysig artikel 36 van die Wet om te bepaal, waar die aansoeker om onderverdeling aansoek doen, maar nie van voorneme is om die grond verder te onderverdeel nie of nie van voorneme is om daardie grond in die toekoms te onderverdeel nie, dat daardie aansoek nie meer hoef aan te dui dat die betrokke gedeelte van die grond gesoneer is, of gesoneer sal word, vir 'n doel wat onderverdeling insluit nie. Hierdie wysiging sal beteken dat dit nie meer 'n minimum vereiste sal wees dat alle grond wat die onderwerp is van 'n onderverdelingsaansoek, waar 'n verandering in sonering vir 'n gedeelte van die grond vereis word, hersoneer moet word vir 'n doel wat onderverdeling insluit nie. 'n Verdere voorgestelde wysiging maak voorsiening, waar die aansoeker wel van voorneme is om die grond in die toekoms verder te onderverdeel, dat die munisipaliteit sy hersonerings-goedkeuring voorwaardelik moet maak aan digtheidsvereistes, hoof- grondgebruike en die omvang daarvan, en aan die voorsiening van 'n uitvoerige infaseringplan of 'n raamwerk. Klousule 8 wysig ook artikel 36 deur te bepaal, as 'n alternatief vir die registrasie van die oordrag van eienaarskap van die grondeenheid of ten minste een nuwe grondeenheid wat op die algemene plan aangedui word, dat 'n aansoeker 'n sertifikaat van geregistreerde titel by die munisipaliteit kan indien wat verklaar dat die grondeenheid wat op die diagram aangedui word, of ten minste een nuwe grondeenheid wat op die algemene plan aangewys word, geregistreer is. Daarbenewens wysig klousule 8 artikel 36(9) deur van munisipaliteite te vereis om voorsiening te maak vir die bevestiging van 'n onderverdeling met of na voldoening aan die vereistes bedoel in subartikel (8). Laastens word 'n tegniese wysiging voorgestel om die vereiste te verduidelik dat 'n munisipaliteit die oplegging van 'n geldigheidstydperk as 'n voorwaarde van goedkeuring moet oorweeg wanneer hy 'n onderverdeling goedkeur.
- 3.6. **Klousule 9** bring 'n tegniese wysiging aan artikel 38 van die Wet aan om die vereiste duideliker te maak dat 'n munisipaliteit moet oorweeg om 'n geldigheidstydperk as 'n voorwaarde van goedkeuring op te lê wanneer hy 'n konsolidering goedkeur.
- 3.7. **Klousule 10** wysig artikel 39 van die Wet deur te bepaal dat slegs daardie persone wie se regte of regmatige verwagtinge weselik en nadelig geraak sal word deur die goedkeuring van die aansoek in kennis gestel moet word van 'n aansoek om die opheffing, opskorting of wysiging van 'n beperkende voorwaarde in 'n titelakte. Hierdie wysiging sal die administratiewe las verbonde aan die verwerking van die aansoek verlig deur die vereistes bestaanbaar te maak met dié wat in die "Promotion of Administrative Justice, 2000" (Wet 3 van 2000) (PAJA) beoog word. Die vereiste om ander belanghebbende en geraakte partye deur middel van publikasies in die pers in kennis te stel, sal steeds geld. Eienaars van afgeleë plekke kan steeds kommentaar lewer en aan die proses deelneem, met die enigste verskil dat hulle nie persoonlik beteken sal word met 'n kennisgewing nie. Klousule 10 wysig ook artikel 39 deur die verpligting te verwyder wat by die munisipaliteit berus om die faktore soos uiteengesit in artikel 49(a) tot (e) van die Wet te oorweeg wanneer 'n aansoek om die opheffing, opskorting of wysiging van 'n beperkende voorwaarde in 'n titelakte oorweeg word. Die munisipaliteit is reeds verplig om, ingevolge die bepalings van PAJA, hierdie faktore in ag te neem wanneer dit van toepassing is op 'n bepaalde besluit ingevolge artikel 39 van die Wet, en die Wet maak reeds elders in die Wet voorsiening vir soortgelyke verpligte oorwegings, daarom sal die verwydering van die verpligting om die faktore in artikel 49(a) tot (e) in ag te neem, bydra tot die uitskakel van rompslomp en ooregulering. Laastens verwyder die klousule ook die oorbodige verpligte minimum vereistes in artikel 39. Die beweegrede vir die wysiging is dat artikels 42(1)(c) en 47(2)(b) van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 16 van 2013) (SPLUMA), sowel as die beginsels bepaal in artikel 7, 'n munisipaliteit van voldoende oorwegings en

regsleiding voorsien wanneer 'n aansoek om die opheffing, opskorting of wysiging van 'n beperkende voorwaarde oorweeg word. Verder geld 'n aansoek om die opheffing, opskorting of wysiging van 'n beperkende voorwaarde as 'n grondgebruikaansoek en die aansoek val dus binne die bestek van die tersaaklike oorwegings soos voorgeskryf in artikel 49(a) tot (e) van die Wet en die spesifieke verwysing daarna in artikel 39 is gevolglik oorbodig.

- 3.8. **Klousule 11** wysig artikel 40 van die Wet om voorsiening te maak vir inklusiewe behuising as 'n potensieële voorwaarde vir goedkeuring van 'n grondgebruikaansoek.
- 3.9. **Klousule 12** skrap die vereiste in artikel 42 van die Wet dat 'n aansoeker die toestemming van die verbandhouer (indien enige) as deel van 'n grondgebruikaansoek moet indien.
- 3.10. **Klousule 13** vervang artikel 43 van die Wet met nuwe bepalings ten opsigte van openbaredeelnamesprosedures wat munisipaliteite moet volg wanneer 'n aansoek ingevolge hierdie Wet of enige ander wet wat grondgebruikbeplanning reguleer, oorweeg word. Die vervanging sal slegs 'n munisipaliteit verplig om lede van die publiek in kennis te stel van aansoeke wat die regte van die publiek of die belange van die gemeenskap wesenlik en nadelig raak. 'n Verdere voorgestelde wysiging maak voorsiening vir nuwe tegniese minimum standaarde vir die metodes wat 'n munisipaliteit kan gebruik om kennisgewings te publiseer, vir lede van die publiek om verdere inligting om aansoeke in sekere omstandighede aan te vra, en vir munisipaliteite om af te wyk van bepalings in artikel 43 van die Wet indien dit redelik en regverdigbaar is om dit te doen onder die omstandighede. Die ervaring wat opgedoen is met die implementering van hierdie artikels van die Wet is dat hierdie wysigings nodig is om buigsamheid aan munisipaliteite te verleen ten einde openbaredeelnamesprosesse te volg wat bestaanbaar is met die spesifieke aansoeke en besluite wat geneem moet word waar dit redelik en regverdigbaar is om dit te doen, ten einde die administratiewe las van daardie prosesse te verminder en rompslomp uit te skakel.
- 3.11. **Klousule 14** vervang artikel 44 van die Wet met nuwe bepalings ten opsigte van kennisgewing- en kommentaarprosedures gerig op individuele persone, wat munisipaliteite moet volg wanneer 'n aansoek ingevolge hierdie Wet of enige ander wet wat grondgebruikbeplanning reguleer, oorweeg word. Die plaasvervanging verwyder die vereiste dat 'n munisipaliteit persone in kennis stel wie se regte of regmatige verwagtinge waarskynlik nie wesenlik en nadelig geraak sal word deur die munisipaliteit se daaropvolgende besluit nie. 'n Verdere voorgestelde wysiging maak voorsiening vir nuwe tegniese minimum standaarde vir die kennisgewings, met inbegrip daarvan om voor te skryf dat die munisipaliteit se besluit op die munisipaliteit se webtuiste gepubliseer sal word, en vir munisipaliteite om af te wyk van bepalings in artikel 44 van die Wet indien dit regverdig en billik is in die omstandighede.
- 3.12. **Klousule 15** wysig artikel 45 van die Wet om die aantal verpligte gevalle te verminder waar 'n munisipaliteit provinsiale kommentaar op 'n grondgebruikaansoek moet versoek. Die volgende vereistes word gewysig of geskrap:
 - 3.12.1. die vereiste om provinsiale kommentaar te verkry oor 'n ontwikkeling buite die munisipaliteit se beplande buitenste grens van stedelike uitbreiding word vervang met die vereiste dat provinsiale kommentaar verkry moet word vir enige aansoek wat afwyk van die munisipaliteit se ruimtelike ontwikkelingsraamwerk;
 - 3.12.2. die vereiste om provinsiale kommentaar oor 'n ontwikkeling buite die fisiese grens van die bestaande stedelike gebied te verkry indien die munisipaliteit nie 'n munisipale ruimtelike ontwikkelingsraamwerk aanvaar het nie, word geskrap;

- 3.12.3. die vereiste om provinsiale kommentaar te verkry oor 'n hersonering van grond wat vir landbou- of bewaringsdoeleindes gesoneer is, is geskrap en by artikel 45(1)(e) ingevoeg, wat voorsiening maak vir die vereiste om provinsiale kommentaar te verkry waar 'n ontwikkeling enige provinsiale funksionele gebied raak.

Klousule 15 wysig ook artikel 45 van die Wet deur die tydperk waarin die Departementshoof skriftelike provinsiale kommentaar oor 'n grondgebruikaansoek aan die munisipale bestuurder moet stuur te verminder van 60 dae na binne 30 dae vanaf 'n versoek om kommentaar.

- 3.13. **Klousule 16** wysig artikel 47 van die Wet deur die tydperk waarin 'n staatsinstelling kommentaar moet lewer op 'n grondgebruikaansoek te verminder van 60 dae na binne 30 dae vanaf 'n versoek om kommentaar.
- 3.14. **Klousule 17** wysig artikel 49 van die Wet deur die vereiste in artikel 49(b) dat 'n munisipaliteit die toepaslike struktuurplanne oorweeg wanneer daar op 'n grondgebruikaansoek besluit word te skrap.
- 3.15. **Klousule 18** wysig artikel 50 van die Wet deur die vereiste dat 'n munisipaliteit ander persone as die aansoeker in kennis stel van 'n besluit wat in Hoofstuk IV van die Wet beoog word, te beperk tot diegene wat kommentaar op die aansoek ingedien het. 'n Verdere voorgestelde wysiging maak voorsiening vir die vereiste dat die kennisgewing redes vir die besluit verskaf, die ontvangende persoon in kennis stel van die reg om teen die besluit te appelleer binne die vasgestelde tydperk en van die minimum besonderhede wat in die appèl vereis word, en dat die besluit vir 90 dae op die munisipaliteit se webtuiste gepubliseer sal word ten einde lede van die publiek wie se regte wesenlik en nadelig geraak word deur die besluit in te lig oor die besluit, die redes vir die besluit en die reg om te appelleer. Dit sal die administratiewe las op munisipaliteite verminder, en ook die appèlprosedure verkort, aangesien dit nie nodig sal wees om afsonderlik redes vir 'n besluit aan te vra nie. Verder sal die wysigings dit moontlik maak vir lede van die publiek wat nie skriftelik in kennis gestel is nie om van die besluit en hul prosedurele regte kennis te neem.
- 3.16. **Klousule 19** voeg 'n nuwe subartikel (5) by artikel 51 van die Wet in om voorsiening te maak dat niks in artikel 51 'n persoon verbied om verrigtinge om geregtelike hersiening aanhangig te maak soos beoog in artikel 6 van die PAJA (Wet 3 van 2000), nie.
- 3.17. **Klousule 20** wysig artikel 54 van die Wet deur die vereiste te skrap dat die besluit oor 'n grondontwikkelingsaansoek in koerante en die *Provinsiale Koerant* gepubliseer moet word, en dit te vervang met die vereiste dat die besluit vir 'n tydperk van 90 dae op die Departement se webtuiste gepubliseer moet word, in welke kennisgewing die Departement lede van die publiek wie se regte wesenlik en nadelig deur die besluit geraak word, in kennis stel van die besluit en redes vir die besluit en hul reg tot appèl. 'n Verdere voorgestelde wysiging bied aan die Departementshoof die diskresie om die besluit en bogenoemde inligting te publiseer deur middel van een of meer metodes, met inbegrip van koerante wat in die betrokke gebied versprei word, of die *Provinsiale Koerant*, of deur kommunikasie in die gedrukte of elektroniese media, of deur daardie kennisgewing op die aansoeker te beteken. Enige persoon wat 'n beswaar teen die aansoek ingedien het, moet van die redes vir die besluit ingelig word, asook hul reg om te appelleer, waar van toepassing.

- 3.18. **Klousule 21** wysig artikel 55 van die Wet deur die vereiste in artikel 55(c)(ii) dat 'n Departementshoof die toepaslike struktuurplanne in ag moet neem by oorweging van en beslissing oor 'n grondontwikkelingsaansoek, te skrap.
- 3.19. **Klousule 22** wysig artikel 60(5) om voorsiening te maak dat die Provinsiale Minister die Provinsiale Kabinet in kennis stel van 'n besluit, in 'n noodsituasie, om 'n munisipaliteit te magtig om van die bepalings van die Wet of 'n voorwaarde van die magtiging af te wyk, so gou as wat redelik moontlik is (in plaas van binne 48 uur) nadat die besluit om die afwyking toe te staan geneem is. 'n Verdere wysiging vervang die verpligting om 'n verslag rakende die besluit binne 14 dae aan die Provinsiale Kabinet voor te lê, met die verpligting om so gou as wat redelikerwys moontlik is 'n verslag in te dien indien die Provinsiale Minister dit nodig ag onder die omstandighede. Hierdie wysigings word vereis aangesien implementering van hierdie klousules in die Wet aangedui het dat, in dringende omstandighede, die vereistes onnodig veeleisend en onprakties is, terwyl die Provinsiale Kabinet voldoende toesig sal kan uitoefen indien die vereistes verlaag word tot die standaard wat in die wysigings beoog word.
- 3.20. **Klousule 23** wysig artikel 61 van die Wet deur te bepaal dat 'n munisipaliteit aansoeke om onderverdeling of konsolidering wat voortspruit uit die totstandkoming of wysiging van 'n ontwikkelingskema soos omskryf in artikel 1(1) van die Wet op Deeltitels, 1986 (Wet 95 van 1986), (die STA), kan vrystel van die gewone vereistes vir daardie aansoeke in onderskeidelik artikel 36(1) en 38(1) van die Wet. Die huidige omskrywings van “grond” en “grondeenheid” in die Wet op Ruimtelike Beplanning en Grondgebruikbestuur (SPLUMA) en die Wes-Kaapse Wet op Grondgebruikbeplanning (“die Wet”) het die onbedoelde gevolg dat die ontwikkeling van 'n deeltitelskema 'n munisipale goedkeuring vereis. Aangesien die SPLUMA-omskrywings nie gewysig kan word nie, is die mees praktiese oplossing om die ontwikkeling van 'n deeltitelskema, soos beskryf ten opsigte van die STA, van munisipale goedkeuring vry te stel. Klousule 23 bring ook 'n tegniese wysiging aan artikel 61 aan om duideliker te maak dat die wetgewing waarna verwys word, wat die onderverdeling van grond reguleer, slegs betrekking het op aansoeke om onderverdeling van landbougrond, en nie die konsolidering van die grond nie.
- 3.21. **Klousule 24** wysig artikel 66 van die Wet ten einde die vereiste te skrap dat 'n munisipaliteit of 'n Departementshoof slegs 'n proses wat ingevolge ander wetgewing voorgeskryf word mag gebruik om kragtens die Wet te besluit oor 'n aansoek indien daardie ander proses streng aan die vereistes van die Wet voldoen. In plaas daarvan word die vereiste ingestel dat die proses in die ander wetgewing slegs gebruik mag word indien dit redelik en regverdigbaar is om dit te doen, na oorweging van onder meer die oogmerke van die Wet. Hierdie wysiging sal die regulatoriese las ten opsigte van die verwerking van aansoeke verlig en die integrasie van prosesse onder veelvoudige wette aanmoedig.
- 3.22. **Klousule 26** bring 'n tegniese wysiging aan artikel 68(1)(c) van die Wet aan deur die frase “bepalings of” in die artikel te skrap.
- 3.24. **Klousule 27** wysig die Wet deur die indeling van artikels te wysig ten einde dit bestaanbaar te maak met die wysigings aan die Wet.
- 3.26. **Klousule 28** maak voorsiening vir 'n oorgangstydperk waarvolgens 'n grondgebruikaansoek of grondontwikkelingsaansoek wat gemaak is voordat die Konsepwysigingswetsontwerp bekragtig is en in werking getree het en nie voor daardie inwerkingtreding afgehandel is nie,

gefinaliseer moet word asof die Konsepwysigingswetsontwerp nie bekragtig is en in werking getree het nie.

3.27. **Klousule 29** maak voorsiening vir die kort titel en inwerkingtreding van die Konsepwysigingswetsontwerp.

4. OORLEGPLEGING

Departement van die Premier: Regsdienste

5. PERSONEELIMPLIKASIES

Geen

6. FINANSIËLE IMPLIKASIES

Geen

7. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister van Plaaslike Regering, Omgewingsake en Ontwikkelingsbeplanning is tevrede dat die bepalings van die Wysigingswetsontwerp binne die wetgewende bevoegdheid van die Provinsie val.

ISAZISO SEPHONDO

I.S. 110/2023

9 kweyeNkanga 2023

INQAKU LENGCACISO NGOKUBANZI:

[] Amagama abhalwe ngqindilili kwizibiyeli abonisa okushiyeiweyo kwimithetho esele ikhona.

_____ Amagama akrwelelwe umgca ngaphantsi ngomgca ongqindilili abonisa okufakelweyo kwimithetho esele ikhona.

**UYILO LOMTHETHO OYILWAYO WOHLENGAHLENGISO LOKUSETYENZISWA
KOMHLABA ENTSHONA KOLONI, 2023**

Ukulungisa uMthetho woCwangciso lokuSetyenziswa koMhlaba waseNtshona Koloni, 2014, ukuze kufakwe okanye kutshintshwe iinkcazelo ezithile nokucima enye inkcazelo; ukwenza uphuculo lwesicatshulwa olunxulumene nokwamkelwa kwesikhokelo esihlaziyeiweyo sophuhliso lommandla kamasipala; ukususa izalathisi ezithile kwizicwangciso zokwakha; ukubonelela ukuba ukusetyenziswa okanye uphuhliso lomhlaba olungangqubaniyo, okanye olungaphazamisayo, iinjongo eziphambili ezifanelekileyo kunye neenjongo zesikhokelo sokuphuhliswa kwendawo esetyenziswayo kuthathwa njengokuhambelana nesikhokelo; ukubonelela ngoomasipala ukuba babeke umqathango wexesha lokusebenza ekuvunyelweni kokuphinda uhlele kwakhona, ukwahlulwa, ukudityaniswa okanye ukuphambuka; ukwenza ulungiselelo olwahlukileyo malunga nezicelo zokwahlula; ukwenza ulungiselelo olwahlukileyo lokuqwalaselwa kwezicelo zokususa, ukunqumamisa okanye ukutshintsha imeko ethintelayo; ukubonelela ngokucacileyo ukuba umasipala aquke ukubonelela ngezindlu ezibandakanya njengemiqathango yokuvunywa kokusetyenziswa komhlaba; ukususa imfuneko yokuba umenzisicelo kwisicelo sokusetyenziswa komhlaba kufuneka angenise imvume yomnini wendlu yendlu ukuba ikhona; ukwenza amalungiselelo awohlukeneyo opapasho kunye nokuhanjiswa kwezaziso malunga nezicelo umasipala aziqwalaselayo ngokoMthetho okanye nawuphi na omnye umthetho olawula ucwangciso lokuusetyenziswa komhlaba; ukwenza amalungiselelo awohlukeneyo ngamaxesha apho, kwaye nini, iNtloko yeSebe kufuneka inike izimvo ngesicelo sokusetyenziswa komhlaba; ukucutha ixesha ekufuneka icandelo likarhulumente livakalise izimvo zalo ngesicelo sokusetyenziswa komhlaba; ukwenza amalungiselelo awohlukeneyo okwazisa abantu kunye noluntu ngesigqibo sesicelo sophuhliso lomhlaba ngumasipala; ukwenza izibonelelo ezahlukeneyo zenkqubo yokwazisa ngezigqibo ezenziwe yiNtloko yeSebe ngesicelo zokusetyenziswa komhlaba; ukwenza amalungiselelo awohlukileyo xa uMphathiswa wePhondo enikezela, okanye elungisa imeko enxulumene nogunyaziso olungxamisekileyo lokukhululwa kwizibonelelo zalo Mthetho; ukubonelela oomasipala ukuba bakhululwe kwizicelo zolwahlulwahlulo okanye zodityaniso oluvela ekusekweni kweskim sophuhliso kwizibonelelo ezingezinye ezisebenza kwizicelo zolwahlulwahlulo

okanye zodityaniso; ukwenza uphuculo lobhalo kwicandelo 61(2)(e); ukwenza izibonelelo ezahlukeneyo zeenkqubo nezigqibo ezihlanganisiweyo; ukubonelela ngezibonelelo zenguqu; kunye nokubonelela ngemiba ehambelana noko.

NGOKO KE KUWISWA UMTHETHO yiPalamente yePhondo yeNtshona Koloni
ngolu hlobo lulandelayo:—

Ukwenziwa kwezilungiso kwicandelo 1 loMthetho 3 ka-2014

1. Icandelo 1 loMthetho woCwangciso lokuSetyenziswa koMhlaba weNtshona Koloni, 2014 (uMthetho oyintloko), uyalungiswa—
 - (a) ngokufakelwa emva kwenkcazelo "yemithombo yobutyebi bemveli" kwenkcazelo elandelayo:

“ ‘izindlu ezidityanisiweyo’ zithetha indlela ekujoliswe kuyo ngokwesithuba exhomekeke kwinkqubo yolawulo yeemvume zocwangciso lophuhliso ukunyanzela abaphuhlisi bezindlu ukuba babonelele ngezindlu ezifikelekayo, ezithengiswayo okanye ezirentwayo, ngaphakathi kophuhliso lwazo;”;
 - (b) ngokufakela endaweni yenkcazelo “imeko ethintelayo” le nkcazelo ilandelayo:

“ ‘umqathango osisithintelo’ unentsingiselo enikezelwe kuwo kuCwangciso lweSithuba kunye noMthetho woLawulo lokuSetyenziswa koMhlaba;” kwaye
 - (c) ngokufakelwa emva kwenkcazelo "yocwangciso lwendawo" yale nkcazelo ilandelayo:

“ ‘UMthetho woCwangciso lweMihlaba kunye noMthetho woLawulo lokuSetyenziswa koMhlaba’ uthetha uMthetho woCwangciso lweMihlaba kunye noLawulo lokuSetyenziswa koMhlaba, 2013 (uMthetho 16 ka-2013);”.

Ukwenziwa kwezilungiso kwicandelo 10 loMthetho 3 ka-2014

2. Icandelo 10 loMthetho oyintloko lenziwa izilungiso ngokufakela eli candelwana lilandelayo endaweni yecandelwana (1)—

“(1) Umasipala kufuneka athobele icandelo 11 xa esamkela [**okanye esenza izilungiso**] isikhokelo sophuhliso lomhlaba sikamasipala okanye isikhokelo sophuhliso lomhlaba sikamasipala esilungisiweyo ngokomthetho oyi*Municipal Systems Act*.”.

Ukwenziwa kwezilungiso kwicandelo 11 loMthetho 3 ka-2014

3. Icandelo 11 loMthetho oyintloko lenziwa izilungiso—
 - (a) ngokufakela esi sihloko silandelayo endaweni yaso esi sihloko silandelayo:

“Ulwamkelo [okanye ukulungiswa] lwezikhokelo zophuhliso lomhlaba zikamasipala okanye izikhokelo zophuhliso lomhlaba kamasipala ezilungisiweyo”; kwaye

- (b) ngokufakela la magama alandelayo endaweni yamagama andulela umhlathi (a)—
 “Inkqubo ezamkelwa ngumasipala ngokwemigaqo yecandelo lama-28 nelama-34 loMthetho oyi *Municipal Systems Act* ngokunxulumene nokwamkelwa [okanye ukulungiswa] kwesikhokelo sophuhliso lwesithuba sikamasipala okanye izikhokelo zophuhliso lomhlaba kamasipala ezilungisiweyo kufuneka senze amalungiselelo okuba—”.

Ukwenziwa kwezilungiso kwicandelo 13 loMthetho 3 ka-2014

4. Icandelo 13 loMthetho oyintloko liyalungiswa—

- (a) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (a) wecandelwana (1) lalo mhlathi ulandelayo:

“(a) kufuneka angenise isiqulunqo sesikhokelo sophuhliso lomhlaba sikamasipala okanye uqulunqo [**lwesilungiso**] olulungisiweyo lwesikhokelo sophuhliso lomhlaba esilungisiweyo kuMphathiswa wePhondo ukuze avakalise izimvo zakhe; kwaye”;

- (b) ngokufakela endaweni yomhlathi (b) wecandelwana (1) lo mhlathi ulandelayo:

“(b) ayinakwamkela isikhokelo sophuhliso lomhlaba sikamasipala okanye [**yamkele**] isikhokelo sophuhliso lomhlaba kamasipala esilungisiweyo [**isihlomelo saso**] de—”.

Ukwenziwa kwezilungiso kwicandelo 14 loMthetho 3 -ka-2014

5. Icandelo 14 loMthetho oyintloko liyalungiswa—

- (a) ngokufakela endaweni yomhlathi (a) walo mhlathi ulandelayo:

“(a) isaziso esibhaliweyo sesigqibo sokwamkela [**okanye ukulungisa**] isikhokelo sophuhliso lomhlaba sikamasipala okanye isikhokelo sophuhliso lomhlaba esilungisiweyo, kunye nezizathu zesigqibo eso;”;

- (b) ngokufakela endaweni yomhlathi (b) walo mhlathi ulandelayo:

“(b) isikhokelo sophuhliso lommandla kamasipala esamkelweyo [**okanye esilungisiweyo**] okanye isikhokelo sophuhliso lomhlaba kamasipala esilungisiweyo; kunye.”

Ukwenziwa kwezilungiso kwicandelo 19 loMthetho 3 ka-2014

6. Icandelo 19 loMthetho oyintloko liyalungiswa—

- (a) ngokufakela endaweni yesihloko esi sihloko silandelayo:

“**Ukuthotyelwa okanye ukuhambelana, kunye nokutenxa, kwizikhokelo zophuhliso lomhlaba [okanye izicwangciso zezinto ezilulwakiwo]**”;

- (b) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (1):
 “(1) Ukuba isikhokelo sophuhliso lomhlaba [**okanye isicwangciso sezinto ezilulwakhiwo**] sibonelela ngokukodwa ngokusetyenziswa okanye uphuhliso lomhlaba njengoko kucetyiwe kwisicelo sokusetyenziswa komhlaba okanye kwisicelo sophuhliso lomhlaba, ukusetyenziswa okucetywayo okanye uphuhliso luthathwa njengokuthobelana nesakhelo sophuhliso lomhlaba [**okanye isicwangciso sobume**].”;
- (c) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (2):
 “(2) Ukuba isikhokelo sophuhliso lomhlaba [**okanye isicwangciso sezinto ezilulwakhiwo**] asiboneleli ngokuthe ngqo ukusetyenziswa okanye uphuhliso lomhlaba njengoko kucetyiwe kwisicelo sokusetyenziswa komhlaba okanye kwisicelo sophuhliso lomhlaba, kodwa ukusetyenziswa okucetywayo okanye uphuhliso alungquzulani, okanye alujongeli phantsi, iinjongo eziphambili kunye neenjongo ze [injongo nalo ndawo ichaphazelekayo] kwisikhokelo sophuhliso lomhlaba esimalunga nesikhokelo sophuhliso lwesithuba okanye isicwangciso sophuhliso lwesithuba okanye isicwangciso sophuhliso omhlaba [**okanye isicwangciso sezinto ezilulwakhiwo,**].”; kwaye
- (d) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (3):
 “(3) Ukuba usetyenziso okanye uphuhliso lomhlaba olucetywayo kwisicelo sokusetyenziswa komhlaba okanye isicelo sophuhliso lomhlaba asihambelani kwaye asihambisani [**nendawo echaphazelekayo ukwenzela ukusetyenziswa komhlaba kwindawo efanelekileyo**] yesikhokelo sophuhliso lomhlaba [**okanye isicwangciso sezinto ezilulwakhiwo**], ukusetyenziswa okucetywayo okanye uphuhliso luyatenxa kweso sikhokelo sophuhliso lomhlaba [**okanye isicwangciso sezinto ezilulwakhiwo**].”.

Ukwenziwa kwezilungiso kwicandelo 35 loMthetho 3 ka-2014

7. Icandelo 35 loMthetho oyintloko owenziwa izilungiso lenziwa izilungiso ngokufakela eli candelwana lilandelayo endaweni yecandelwana (3)—
 “(3) Xa umasipala esamkela isicelo sokusetyenziswa komhlaba sokucandwa ngokutsha komhlaba, ukushenxa okanye imvume yokusetyenziswa, umasipala kufuneka athathele ingqalelo ukumisela ixesha elisemthethweni lolwamkelo njengomqathango wolwamkelo.”.

Ukwenziwa kwezilungiso kwicandelo 36 loMthetho 3 ka-2014

8. Icandelo 36 loMthetho oyintloko lenziwa izilungiso—
 (a) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (3):
 “(3) Umasipala kufuneka [**afune ubuncinane oku kulandelayo**] malunga nesicelo solwahlulwahlulo afune ukuba umntu onobuchule angenise isicwangciso solwahlulo esibonisa oku kulandelayo:
 (a) [**ukuba utshintsho lwezowuni luyabandakanyeka ukuba isicelo sibhekiselele kumhlaba ozowuniweyo, okanye oza kucandwa,**

ngeenjongo ezibandakanya ulwahlulomhlaba] indawo yeeyunithi zomhlaba ezicetywayo, iindawo zikawonkewonke kunye nomhlaba oyimfuneko ngeenjongo zoluntu; kwaye

(b) [ukungeniswa kwesicwangciso solwahlulomhlaba esibonisa oku kulandelayo:] ucando olucetywayo ngokubhekiselele kwiyunithi yomhlaba ecetywayo.

[(i) Indawo yendawo ecetywayo yomhlaba, iindawo zikawonkewonke nomhlaba ofunekayo ngeenjongo zikawonkewonke; kunye

(ii) nocando olucetywayo malunga neeyunithi zomhlaba ezicetywayo.]”;

(b) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (6):

“(6) Xa umasipala [ephumeza ucando ngokutsha ngenjongo ebandakanya ulwahlulwahlulo, kufuneka abeke imiqathango ebonelela ngobuncinci—] eqwalasela isicelo sokwahlulwahlulwa esibandakanya umhlaba lowo umenzisicelo ajonge ukuphinda wahlulwe okanye ukwahlulwa kwixesha elizayo, umasipala angasamkela isicelo kuphela ukuba loo mhlaba ucandelwe, okanye uya kucandwa, ngeenjongo ezibandakanya ukwahlulwahlulwa.

[(a) iimfuno zoxinaniso;

(b) ukusetyenziswa komhlaba okungundoqo nobungakanani bawo kunye

(c) nesicwangciso sesigaba esineenkukacha okanye inkqubo-sikhokelo ebandakanya—

(vii) iindlela eziphambili zothutho;

(viii) ukusetyenziswa komhlaba okuphambili;

(ix) iziseko ezingundoqo;

(x) iimfuno zamaziko karhulumente;

(xi) iimfuno zendawo evulelekileyo yoluntu; kunye

(xii) nemiqobo yophuhliso olubonakalayo.]”;

(c) ngokufakelwa emva kwecandelwana (6) leli candelwana lilandelayo:

“(6A) Xa umasipala ephumeza ucando ngokutsha olukhankanywe kwicandelwana (6), kufuneka abeke imiqathango ebonelela ubuncinane

(a) ngeemfuno zoxinaniso;

(b) ukusetyenziswa komhlaba okuphambili kunye nobungakanani bawo; kunye

(c) isicwangciso sezigaba esineenkukacha okanye isikhokelo esibandakanya—

(i) iindlela eziphambili zothutho;

(ii) ukusetyenziswa komhlaba okuphambili;

(iii) iziseko ezingundoqo;

(iv) iimfuno zamaziko karhulumente;

(v) iimfuno zendawo evulelekileyo yoluntu; kunye

(vi) nemiqobo yophuhliso olubonakalayo.]”;

- (d) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (d) wecandelwana (8):
 “(d) ukubhaliswa kotshintshiselwano lobunini ngokoMthetho woBhaliso lweMihlaba yeYunithi yomhlaba eboniswe kumzobo okanye ubuncinane beyunithi enye yomhlaba entsha eboniswe kwisicwangciso ngokubanzi, okanye umenzisicelo kufuneka angenise kumasipala isiqinisekiso setayitile ebhalisiweyo ngokwemiqathango yeDeeds Registries Act echaza ukuba iyunithi yomhlaba eboniswe kumzobo okanye iyunithi enye yomhlaba entsha eboniswe kwisicwangciso ngokubanzi ibhalisiwe.”;
- (e) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (9):
 “(9) Umasipala kufuneka, ngokuhambelana nobuncinane bemigangatho enokuthi imiselwe—
- (a) kuthathelwe ingqalelo ukumisela, njengomqathango wokuvunywa kolwahlulwahlulo, ixesha elisemthethweni lokuphelelwa kolwamkelo ukuba umenzisicelo uyasilela ukuthobela iimfuno ekubhekiselwe kuzo kwicandelwana (8) phakathi kwexesha elisemthethweni; kwaye
- (b) enze amalungiselelo okuqinisekisa ulwahlulo, kubandakanywa ukuqinisekiswa kocando kunye negunya lobunini beendawo zikawonkewonke kumasipala, emva okanye emva kokuthotyelwa kweemfuno ezichazwe kwicandelwana (8).”.

Ukwenziwa kwezilungiso kwicandelo 38 loMthetho 3 ka-2014

9. Icandelo 38 loMthetho oyintloko owenziwa izilungiso lenziwa izilungiso ngokufakela eli candelwana lilandelayo endaweni yecandelwana (3):
 “(3) Xa umasipala ephumeza ukudityaniswa kweeyunithi zomhlaba, umasipala kufuneka athathele ingqalelo ukumisela ixesha elisemthethweni lolwamkelo njengomqathango wokunika imvume.”.

Ukwenziwa kwezilungiso kwicandelo 39 loMthetho 3 ka-2014

10. Icandelo 39 loMthetho oyintloko lenziwa izilungiso—
- (a) ngokufakela endaweni yomhlathi (b) wecandelwana (2) lo mhlathi ulandelayo:
 “(b) nawuphi na omnye umntu olungelo lakhe okanye ulindelo olusemthethweni luya kuchatshazelwa kakubi kukuvunywa kwesicelo.”;
- (b) ngokufakela endaweni yecandelwana (3) eli candelwana lilandelayo:
 “(3) Xa umasipala esusa, enqumamisa okanye elungisa umqathango osisithintelo ngokuthanda kwakhe, umasipala kufuneka athobele icandelwana (2) necandelo 43 [**kwaye kufuneka athathele ingqalelo ubuncinane imiba ekubhekiswa kuyo kwicandelo 49(a) ukuya ku-(e).**]”;
- kwaye
- (c) ngokucima icandelwana (5).

Ukwenziwa kwezilungiso kwicandelo 40 loMthetho 3 ka-2014

11. Icandelo 40 loMthetho oyintloko lenziwa izilungiso—

- (a) ngokutshintsha indawo yesingxi kumhlathi (q) wecandelwana (2) ngesemikholoni;
- (b) ngokongeza emva komhlathi (q) wecandelwana (2) lomhlathi ulandelayo—
“*(r) izindlu ezidityanisiweyo.*”.

Ukwenziwa kwezilungiso kwicandelo 42 loMthetho 3 ka-2014

12. Eli candelo lilandelayo lifakwa endaweni yecandelo 42 loMthetho oyintloko:

“42. Umenzisicelo kwisicelo sokusetyenziswa komhlaba kufuneka ubuncinane angenise oku kulandelayo kumasipala malunga nomhlaba lowo uchaphazelekayo:

- (a) ikopi yesicatshulwa esifanelekileyo sesicwangciso esiqhelekileyo esivunyiweyo okanye umzobo; kwaye
- (b) ikopi yetayitile yobunini.”.

Ukwenziwa kwezilungiso kwicandelo 43 loMthetho 3 ka-2014

13. Eli candelo lilandelayo lifakwa endaweni yecandelo 43 loMthetho oyintloko:

“Ukupapashwa kwezaziso

43. (1) Xa umasipala enenjongo yokuqwalasela isicelo ngokwalo Mthetho okanye nawuphi na omnye umthetho olawula ukucwangciswa kokusetyenziswa komhlaba, isigqibo esibhekiselele ekunokuthi sichaphazele kakubi amalungelo oluntu okanye iimfuno zoluntu, kufuneka—

- (a) athabathe amanyathelo afanelekileyo okudlulisela isicelo kwabo banokuchaphazeleka kakubi kuso aze acele izimvo kubo;
- (b) aqwalasela naziphi na izimvo ezifunyenweyo; kwaye
- (c) athathe isigqibo sokuba uyasivuma na okanye hayi isicelo, ngotshintsho okanye ngaphandle kotshintsho.

(2)(a) Ulwazi malunga nesicelo kufuneka lupapashwe njengesaziso ukuba isicelo—

- (i) sichaphazela amalungelo oluntu kwiRiphabliki yoMzantsi Afrika yonke, kwiGazethi kaRhulumente kunye nephephandaba elisasazwayo, okanye kumaphephandaba asasazwa ngokudibeneyo, kwiRiphabliki yoMzantsi Afrika iphela.;
- (ii) sichaphazela amalungelo oluntu kwiPhondo kuphela, kwiGazethi yePhondo nakwiphephandaba elisasazwayo, okanye kumaphephandaba asasazwa ngokuhlangeneyo, kwiPhondo liphela; okanye
- (iii) sichaphazela amalungelo oluntu okanye umdla woluntu kwindawo ethile kuphela, kwiphephandaba elisasazwa kuloo ndawo ithile.

- (b) Isaziso esipapashwe ngokomhlathi (a) kufuneka sithathele ingqalelo ulwimi olukhethwayo kunye nokusetyenziswa kulo ndawo ichaphazelekayo.
- (3) Isaziso esipapashwe ngokwecandelwana (2) kufuneka—
- (a) siquke ulwazi olwaneleyo malunga nesicelo ukuze amalungu oluntu akwazi ukungenisa izimvo ezifanelekileyo, kubandakanywa, ubuncinane—
- (i) ulwazi ngobume nenjongo yesicelo; kunye
- (ii) inkcazelo yeyunithi yomhlaba okanye iiyunithi zomhlaba ezibhekiselele kwisicelo;
- (b) sichaze indawo okanye iindawo apho, kunye neeyure apho, ulwazi olongezelelweyo malunga nesicelo luya kufumaneka ukuze luphononongwe luluntu;
- (c) sibandakanye isimemo kumalungu oluntu ukuba angenise izimvo ezibhaliweyo malunga nesicelo kumasipala ngomhla okanye phambi komhla ochazwe kwisaziso, umhla onokuthi ungabi ngaphambi kweentsuku ezingama-30 ukusukela kumhla wokupapashwa kwesaziso.;
- (d) sibandakanye isilumkiso sokuba izimvo ezifunyenwe emva komhla wokuvalwa zinokungahoywa;
- (e) sichaze igama kunye nesihloko somntu ekufuneka kuthunyelwe kuye okanye kunikezelwe kuye naziphi na izimvo, kunye—
- (i) nedilesi yaloo mntu yomsebenzi, yeposi, yesitalato neyeimeyile; kunye
- (ii) nenombolo yefowuni yomsebenzi;
- (f) sicacise ukuba umenzisicelo naye nawuphi na umntu othe wafaka izimvo ngesicelo, uya kwaziswa ngesigqibo sesicelo, kwaye eso sigqibo siya kupapashwa kwiwebhusayithi kamasipala, njengoko kucamngciwe kwicandelo 50(1).
- (4) Isaziso esipapashwe ngokwecandelwana (2)(a)(i) kunye (ii) kwiphephandaba sinokuthi, nangona icandelwana (3), siqulathe kuphela—
- (a) ingxelo emfutshane yesicelo;
- (b) igama, itayitile esemthethweni, inombolo yomnxeba, idilesi yeimeyile kunye nedilesi yendawo yokuhlala yomntu ekunokufumaneka kuye ulwazi oluthe vetshe ngesicelo kunye nenkqubo yolawulo; kwaye
- (c) inqaku lokuba isaziso esithe vetshe malunga nesicelo sipapashwe kwiGazethi kaRhulumente okanye kwiGazethi yePhondo, njengoko imeko injalo.
- (5) Ukufikelela kulwazi olongezelelekileyo njengoko kungcamngcwa kwicandelwana (3)(b) kufuneka kuvunyelwe ukususela kumhla wokupapashwa kwesaziso kude kube ngumhla wokugqibela wokunika izimvo, ngexesha leeyure eziqhelekileyo zokusebenza.
- (6)(a) Ukuze kuqinisekiswa ukuba isicelo siyaziswa kuluntu, umasipala unokuthi, ukongeza, alupapashe ulwazi ekubhekiswa kulo kwicandelwana (3) okanye (4) ngonxibelelwano ngoshicilelo okanye usasazo lwe-elektroniki, kubandakanywa indlela yokusasazwa koonondaba, iinkomfa noonondaba, i-intanethi, unomathotholo okanye usasazo lukamabonakude, iipowusta, amaphetshana, izibhengezo

ngesandisi-lizwi, upapasho kwiibhodi zezaziso zasekuhlaleni, ii-imeyile okanye amajelo osasazo onxibelelwano.

(b)(i) Umasipala unokwenza ukuba kuphawulwe isaziso kumhlaba ochaphazelekayo.

(ii) Isaziso esicamngcwe kumhlathi (i) kufuneka sihambisane nomhlathana (3) kwaye kufuneka sihlale sifundeka ngexesha lesaziso.

(7)(a) Ukuba isicelo sinokuchaphazeleka kakubi kumalungelo amalungu oluntu oluthile olubandakanya inani elikhulu labantu abangakwaziyo ukufunda nokubhala okanye abafuna uncedo olukhethekileyo ngenye indlela, umasipala kufuneka athathe amanyathelo awodwa okufumana izimvo zamalungu oluntu.

(b) Amanyathelo awodwa ngokomhlathi (a) angabandakanya—

(i) ukubanjwa kweentlanganiso zikawonkewonke okanye zeqela apho isicelo sicacisiweyo, kuphendulwe imibuzo neembono zabaphulaphuli zibhalwe kwimizuzu;

(ii) uphando lwezimvo zoluntu ekuhlaleni malunga nesicelo; okanye

(iii) ukubonelela ngeziko lobunobhala ekuhlaleni apho amalungu ekuhlaleni anokuvakalisa izimvo zawo ngesicelo.

(8)(a) Umasipala angawandisa umhla wokugqibela wokunika izimvo ekubhekiselelwe kuwo kwicandelwana (3)(c).

(b) Nakuphi na ukwandiswa komhla wokugqibela okungaphezulu kwenyanga enye kufuneka kupapashwe ngendlela yesaziso njengoko kuchaziwe kwicandelwana (2), kwaye xa kufanelekile, kwicandelwana (6).

(9)(a) Umasipala—

(i) unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvala wokuvakalisa izimvo; okanye

(ii) unako, kodwa akanyanzelekanga, ukwamkela izicelo zokuxolelwa kokungeniswa kwezimvo emva kwexesha.

(b) Isicelo soxolelo sinokuvunywa ngesizathu esibambekayo esibonakaliswe ngumntu ongenise izimvo zakhe ukuba olo xolelo alunakuvuma—

(i) ukukhokelela ekulibazisekeni okungeyomfuneko;

(ii) kungenjalo kungonakalisa umdla woluntu.

(10)(a) Ukuba kunengqiqo kwaye kuyathetheleleka kwiimeko, umasipala unokuphambuka kwimimiselo yeli candelo.

(b) Ukuqinisekisa ukuba utyeshelo lwemiqathango oluxelwe kumhlathi (a) lunengqiqo kwaye luyathetheleleka, umasipala kufuneka athathele ingqalelo yonke imiba echaphazelekayo, kuquka—

(i) iinjongo zalo Mthetho, kunye nawo nawuphi na omnye umthetho osebenzayo olawula ucwangciso lokusetyenziswa komhlaba;

(ii) uhlobo nenjongo yesicelo, kunye nemfuneko yokuvunywa kwesicelo;

(iii) isiphumo esinokwenzeka sokuvunywa kwesicelo;

(iv) ukungxamiseka kokwamkelwa kwesicelo okanye ukungxamiseka kwalo mcimbi; kwaye

- (v) imfuneko yokukhuthaza ulawulo olusebenzayo nolawulo olulungileyo.
- (11) Ukupapashwa kwesaziso esixelwe kwicandelwana (2) akumkhululi umasipala kwisibophelelo sokwenza isaziso sinikezelwe kwiimeko ezixelwe kwisiqendu 44(1).”

Ukwenziwa kwezilungiso kwicandelo 44 loMthetho 3 ka-2014

14. Eli candelo lilandelayo lifakwa endaweni yecandelo 44 loMthetho oyintloko:

“Ukunikezelwa kwezaziso

44. (1) Xa umasipala enenjongo yokuqwalasela isicelo ngokwalo Mthetho okanye nawuphi na omnye umthetho olawula ukucwangciswa kokusetyenziswa komhlaba, isigqibo esibhekiselele ekunokuthi sichaphazele kakubi amalungelo okanye izinto ezilindelekileyo kuye nawuphi na umntu, kufuneka—
- (a) abangela ukuba isaziso malunga nesicelo sinikezelwe kuloo mntu kwaye ubize amagqabantshintshi kuloo mntu;
- (b) aqwalasele naziphi na izimvo ezifunyenweyo; kwaye
- (c) athathe isigqibo sokuba uyasivuma na okanye hayi isicelo, ngotshintsho okanye ngaphandle kotshintsho.
- (2) Isaziso ekubhekiswa kuso kwicandelwana (1)(a) kufuneka—
- (a) siquke ulwazi olwaneleyo malunga nesicelo ukwenzela ukuba umntu akwazi ukungenisa izimvo ezinentsingiselo, kubandakanywa, ubuncinane—
- (i) ulwazi ngobume nenjongo yesicelo; kwaye
- (ii) inkcazelo yeyunithi yomhlaba okanye iyunithi zomhlaba ezibhekiselele kwisicelo;
- (b) sichaze indawo okanye iindawo apho, kunye neeyure apho, ulwazi oluthe vetshe malunga nesicelo luya kufumaneka ukuze luhlolwe;
- (c) sibandakanye isimemo emntwini ukuba angenise izimvo ezibhaliweyo malunga nesicelo kumasipala ngomhla okanye phambi komhla ochazwe kwisaziso, umhla onokuthi ungabi ngaphambi kweentsuku ezingama-30 ukusuka kumhla wokunikezelwa kwesaziso;
- (d) sibandakanye isilumkiso sokuba izimvo ezifunyenwe emva komhla wokugqibela zisenokungaqwalaselwa;
- (e) sichaze igama kunye netayitile esemthethweni yomntu ekufuneka kuthunyelwe okanye kusiwe kuye izimvo, kunye—
- (i) nedilesi yomsebenzi yaloo mntu, idilesi yeposi, yesitalato kunye neimeyile;
- (ii) inombolo yefowuni yomsebenzi; kwaye

- (f) sichaze ukuba umenzisicelo naye nawuphi na umntu othe wafaka izimvo ngesicelo, uya kwaziswa ngesigqibo sesicelo, kwaye eso sigqibo siya kupapashwa kwiwebhusayithi kamasipala, njengoko kucamngciwe kwicandelo 50(1), kwaye kufuneka kuthathelwe ingqalelo ulwimi olukhethwayo nolusetyenziswayo kummandla ochaphazelekayo.
- (3) Ukufikelela kulwazi olongezelelweyo njengoko kucamngciwe kwicandelwana (2)(b) kufuneka kuvunyelwe ukususela kumhla wokunikezelwa kwesaziso kude kube ngumhla wokugqibela wokunika izimvo, ngeeyure eziqhelekileyo zeofisi.
- (4) Umasipala unokuthi, ngokubona kwakhe, kananjalo anike umntu ekubhekiswa kuye kwicandelwana (1) ithuba—
- (a) lokufumana uncedo, kwaye kwiimeko ezinzima okanye ezintsonkothileyo, ukumelwa ngummeli;
 - (b) lokunikezela aze aphikisane nengcaciso neengxoxo; kunye
 - (c) nelokubakho ngokobuqu.
- (5)(a) Ukuba isicelo sinokuchaphazela kakubi amalungelo okanye ukulindela okusemthethweni komntu ongakwaziyo ukufunda okanye ukubhala okanye ofuna uncedo olukhethekileyo—
- (i) isaziso kufuneka siquke ingcaciso ebekwe ngendlela eya kwenza ukuba isicelo siqwalaselwe; kwaye;
 - (ii) umasipala kufuneka athathe amanyathelo akhethekileyo ukufumana izimvo zaloo mntu.
- (b) Amanyathelo awodwa ngokomhlathi (a)(ii) angabandakanya—
- (i) ukubanjwa kwentlanganiso apho isicelo sicacisiweyo, kuphendulwe imibuzo neembono zaloo mntu zibhalwe kwimizuzu; okanye
 - (ii) ukubonelela ngoonobhala ukuze bancedise loo mntu ukuba achaze izimvo zakhe ngesicelo.
- (6)(a) Umasipala angawandisa umhla wokugqibela wokunika izimvo ekucingwa ngawo kwicandelwana (2)(c).
- (b) Umasipala kufuneka azise wonke umntu onamalungelo okanye izinto ezilindelekileyo ezinokuchatshazelwa kakubi sisicelo, ngalo naluphi na ulwandiso lomhla wokuvala ongaphezulu kwenyanga enye ngokunikezela ngesinye isaziso njengoko kuchaziwe kwicandelwana (1)(a).
- (7)(a) Umasipala—
- (i) unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvala wokuvakalisa izimvo; okanye
 - (ii) unako, kodwa akanyanzelekanga, ukwamkela izicelo zokuxolelwa kokungeniswa kwezimvo emva kwexesha.
- (b) Isicelo soxolelo sinokwamkelwa ngesizathu esibambekayo esibonakaliswe ngumntu ongenise izimvo zakhe ukuba olo xolelo aluna—

- (i) kukhokelela ekulibazisekeni okungeyomfuneko; okanye
 - (ii) kungenjalo kungonakalisa umdla woluntu.
- (8)(a) Ukuba kunengqiqo kwaye kuyathetheleleka kwiimeko, umasipala unokuphambuka kwimimiselo yeli candelo.
- (b) Ukuqinisekisa ukuba utyeshelo lwemiqathango oluxelwe kumhlathi (a) lunengqiqo kwaye luyathetheleleka, umasipala kufuneka athathele ingqalelo yonke imiba echaphazelekayo, kuquka—
- (i) iinjongo zalo Mthetho, kunye nawo nawuphi na omnye umthetho osebenzayo olawula ucwangciso lokusetyenziswa komhlaba;
 - (ii) uhlobo nenjongo yesicelo, kunye nemfuneko yokuvunywa kwesicelo;
 - (iii) isiphumo esinokwenzeka sokwamkelwa kwesicelo;
 - (iv) ukungxamiseka kokwamkelwa kwesicelo okanye ukungxamiseka kwalo mcimbi; kunye
 - (v) nemfuneko yokukhuthaza ulawulo olululo kunye nolawulo olulungileyo.”.

Ukwenziwa kwezilungiso kwicandelo 45 loMthetho 3 ka-2014

15. Icandelo 45 loMthetho oyintloko lenziwa izilungiso—

- (a) ngokuthi kufakwe endaweni yomhlathi (a) yecandelwana (1) yomhlathi olandelayo:
 - “(a) uphuhliso [**lwangaphandle**] olutenxayo [**kumda ongaphandle ocwangcisiweyo wolwandiso lwedolophu njengoko ubonakaliswe**] kwisakhelo salo sophuhliso lommandla kamasipala;”;
- (b) ngokucima umhlathi (b) wecandelwana (1);
- (c) ukucinywa komhlathi (c) wecandelwana 1;
- (d) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (e) wecandelwana (1):
 - “(e) uphuhliso [**njengoko luchaziwe**] oluchaphazela indawo yokusebenza yephondo;” kwaye
- (e) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (2).:
 - “(2) INTloko yeSebe kufuneka, kwisithuba seentsuku [**60**] ezingama-30 emva kwesicelo sokwenza amagqabantshintshi ekubhekiswe kuso kwicandelwana (1), inikezele amagqabantshintshi abhaliweyo ephondo kumlawuli kamasipala.”.

Ukwenziwa kwezilungiso kwicandelo 47 loMthetho 3 ka-2014

16. Icandelo 47 loMthetho oyintloko owenziwa izilungiso lenziwa izilungiso ngokufakelwa kwecandelwana elithi “60” endaweni yecandelwana elithi “30” endaweni yecandelwana (1).

Ukwenziwa kwezilungiso kwicandelo 49 loMthetho 3 ka-2014

17. Icandelo 49 loMthetho oyintloko owenziwa izilungiso liyalungiswa—
(a) ngokucinywa komhlathi (b).

Ukutshintshwa kwecandelo 50 loMthetho 3 ka-2014

18. Eli candelo lilandelayo lifakwa endaweni yecandelo 50 loMthetho oyintloko:

“Ukwaziswa kwezigqibo zikamasipala

50. (1) Umasipala kufuneka, emva kokuthatha isigqibo esicamngcwe kwesi Sahluko, ubuncinane—

(a) ngembalelwano azise umenzi-sicelo kunye naye nawuphi na umntu ongenise izimvo zakhe ngesicelo, ngesigqibo nezizathu zeso sigqibo, aze azise abo bantu ngalo naliphi na ilungelo lesibheni, apho kuyimfuneko; kwaye

(b) apapashe isigqibo kwiwebhusayithi yayo kangangeentsuku ezingama-90, kwaye, kupapasho olunjalo, azise amalungu oluntu amalungelo abo achaphazeleka kakubi sisigqibo, sesigqibo, izizathu zesigqibo kunye nelungelo lokubhena.

(2) Izaziso ezicamngcwe kwicandelwana (1) kufuneka, apho kufanelekileyo,—

(a) zicacise ixesha, iingxoxo zesibheni, ukuba likho, ekufuneka kuqaliswe ngalo;

(b) zichaze igama nedilesi yomntu ekufuneka kuqalwe kuye inkqubo yesibheni; kwaye

(c) zichaze naziphi na ezinye iimfuno ezisesikweni ngokumalunga neenkqubo zesibheni.”

Ukwenziwa kwezilungiso kwicandelo 51 loMthetho 3 ka-2014

19. Icandelo 51 loMthetho oyintloko owenziwa izilungiso lenziwa izilungiso ngokongezwa kweli candelwana lilandelayo:

“(5) Akukho nto kweli candelo inqanda umntu ekuqaliseni inkqubo yoqwalaselo ngokutsha lwenkundla njengoko kuchaziwe kwicandelo 6 loMthetho wokuPhakanyiswa koLawulo lobuLungisa, 2000 (uMthetho 3 ka-2000).”

Ukwenziwa kwezilungiso kwicandelo 54 loMthetho 3 ka-2014

20. Icandelo 54 loMthetho oyintloko owenziwa izilungiso lenziwa izilungiso ngokufakela eli candelwana lilandelayo endaweni yecandelwana (7).—

“(7) INTloko yeSebe, kwisithuba seentsuku ezingama-21 emva kwesigqibo sayo ngesicelo sophuhliso lomhlaba—

(a) kufuneka ashicilele isigqibo kwiwebhsayithi yeSebe ixesha elingangeentsuku ezingama-90 ubuncinane, kwaye, kweso siphakamiso,

azise amalungu oluntu anamalungelo achaphazelekayo nawonakaliswe sisigqibo, ngesigqibo nezizathu zesigqibo kunye nelungelo lokubhena; (b) lunokwenza ukuba uluntu luziswe ngesigqibo nezizathu zeso sigqibo ngokupapasha isaziso kumaphephandaba ajikeleziswe kwindawo echaphazelekayo okanye kwiGazethi yePhondo, ngendlela yonxibelelwano ngoshicilelo okanye kumajelo eendaba e-elektroniki, kubandakanywa nendlela yokupapasha amaphephandaba, iinkomfa noonondaba, unomathotholo okanye usasazo lukamabonakude, iipowusta, amaphetshana, izibhengezo ngesandisilizwi, upapasho kwiibhodi zezaziso zasekuhlaleni, ii-imeyile okanye amajelo osasazo oluntu, okanye ngendlela yokudibanisa ezo ndlela; kwaye (c) kufuneka abhale phantsi azise umenzisicelo kunye naye nawuphi na umntu ofake isichaso ngokuchasene nesicelo, ngesigqibo nezizathu zeso sigqibo, kwaye azise abo bantu ngalo naliphi na ilungelo lesibheni, apho kuyimfuneko.”.

Ukwenziwa kwezilungiso kwicandelo 55 loMthetho 3 ka-2014

21. Icandelo 55 loMthetho oyintloko owenziwa izilungiso lenziwa izilungiso ngokususa umhlathi (ii) icandelwana (c).

Ukwenziwa kwezilungiso kwicandelo 60 loMthetho 3 ka-2014

22. Icandelo 60(5) loMthetho oyintloko owenziwa izilungiso liyalungiswa—

- (a) ngokufakela la magama alandelayo endaweni yamagama andulela umhlathi (a)—
“(5) UMphathiswa wePhondo kufuneka ngokukhawuleza kangangoko kunokwenzeka emva kokuba ugunyaziso lunikezelwe phantsi kwecandelwana (2), okanye umqathango wolo gunyaziso ulungisiwe okanye warhoxiswa phantsi kwecandelwana (6)—”;
- (b) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (a) wecandelwana (5):
“(a) [kwiinyure ezingama-48 zogunyaziso phantsi kwecandelwana (2), okanye ukulungiswa okanye ukurhoxiswa komqathango wogunyaziso olunjalo phantsi kwecandelwana (6),] azise iKhabhinethi yePhondo ngoko aze abangele ukuba kupapashwe isaziso ngoko kwiGazethi yePhondo; kunye”; kwaye
- (c) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (b) wecandelwana (5):
[Kwiintsuku ezili-14 zokugunyaziswa okanye ukulungiswa okanye ukurhoxiswa komqathango,] angenise ingxelo yoko kwiKhabhinethi yePhondo ukuba uMphathiswa wePhondo ubona kuyimfuneko phantsi kweemeko.”.

Ukwenziwa kwezilungiso kwicandelo 61 loMthetho 3 ka-2014

23. Icandelo 61 loMthetho oyintloko owenziwa izilungiso liyalungiswa—

- (a) ngokongeza emva komhlathana (v) womhlathi (d) wecandelwana (2) lo mhlathana ulandelayo.:

“(vi) ukusekwa okanye ukulungiswa kweskim sophuhliso njengoko kuchaziwe kwicandelo 1(1) lomthetho iSectional Titles Act, 1986 (uMthetho 95 ka-1986)”;

- (b) ngokufakela endaweni yemihlathana (i) kunye (ii) yomhlathi (e) wecandelwana (2) le mihlathana ilandelayo, ngokwahlukana kwayo:

“(i) kwimeko yokwahlulwa-hlulwa okanye udibaniso, alukhokeli ekwandeni kwedolophu; kwaye

(ii) kwimeko yokwahlulwahlulwa komhlaba, kufuna imvume ngokomthetho olawula ukwahlulwa komhlaba wezolimo; okanye”.

Ukwenziwa kwezilungiso kwicandelo 66 loMthetho 3 ka-2014

24. Icandelo 66 loMthetho oyintloko owenziwa izilungiso liyalungiswa—

- (a) ngokufakela lo mhlathi wecandelo (a) lecandelwana (1) lo mhlathi olandelayo:

“(a) ukwamkelwa [okanye ukulungiswa] kwesikhokelo sophuhliso lwesithuba sikamasipala okanye isikhokelo sophuhliso lomhlaba esilungisiweyo;”;

- (b) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (a) wecandelwana (4):

“(a) ukwenza isigqibo ngokwamkelwa [okanye isilungiso] sesikhokelo sophuhliso lomhlaba sephondo, isikhokelo sophuhliso lomhlaba esilungisiweyo okanye isikhokelo sophuhliso lomhlaba sephondo;” kwaye

- (c) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (b) wecandelwana (4):

“(b) ukunikezela ngezimvo ezicamngcwe kwicandelo 12(4) okanye kwicandelo 13(2) ngokwamkelwa [okanye ukuguqulwa] kwesikhokelo sophuhliso lommandla sikamasipala okanye isikhokelo sophuhliso lommandla sikamasipala esitshintshiweyo;”.

Ukwenziwa kwezilungiso kwicandelo 67 loMthetho 3 ka-2014

25. Icandelo 67 loMthetho oyintloko owenziwa izilungiso liyalungiswa—

- (a) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (5):

“(5) Umasipala okanye iNtloko yeSebe inokwenza isigqibo ngesicelo esikwafuna ulwamkelo ngokwemiqathango yomnye umthetho ngokwenkqubo ebekwe phantsi kwaloo mthetho, kodwa kuphela ukuba [loo nkqubo iyazifezekisa iimfuno zemithetho kamasipala esebenzayo kunye nalo Mthetho] sisengqiqweni kwaye siyathetheleleka.”;

- (b) ngokuthi kufakelwe eli candelwana lilandelayo emva kwecandelwana (5).;

“(5A) Ukuqinisekisa ukuba isigqibo ngesicelo esisekwe kwinkqubo ebekwe phantsi komnye umthetho njengoko kucamngciwe kwicandelwana (5) sinengqiqo kwaye siyathetheleleka, umasipala okanye iNtloko yeSebe kufuneka iqwalasele zonke izinto ezifanelekileyo, kuquka—

(a) iinjongo zalo Mthetho;

(b) uhlobo nenjongo, kunye nemfuneko yokuvunywa kwesicelo;

(c) isiphumo esinokubakho sokwamkelwa kwesicelo;

- (d) ukungxamiseka kokwamkelwa kwesicelo okanye ukungxamiseka kwalo mcimbi; kwaye
- (e) imfuneko yokukhuthaza ulawulo olusebenzayo nolawulo olulungileyo”.
- (c) ngokutshintshwa kwecandelwana (6) lecandelwana elilandelayo:
 “(6) INtloko yeSebe isenokuthi yenze isigqibo ngesicelo esikhankanywe kwicandelo 54 ngokwenkqubo emiselwe phantsi kwemithetho kamasipala echaphazelekayo, kodwa kuphela ukuba **[loo nkqubo iyazifezekisa iimfuno zalo Mthetho] sisengqiqweni kwaye siyathetheleleka.**”; kwaye
- (d) ngokuthi kufakelwe eli candelwana lilandelayo emva kwecandelwana 6;
 “(6A) Ukuqinisekisa ukuba isigqibo ngesicelo esisekwe kwinkqubo ebekwe phantsi komnye umthetho njengoko kucamngciwe kwicandelwana (6) sinengqiqo kwaye siyathetheleleka, umasipala okanye iNtloko yeSebe kufuneka iqwalasele zonke izinto ezifanelekileyo, kuquka—
- (a) iinjongo zalo Mthetho;
- (b) uhlobo nenjongo, kunye nemfuneko yokuvunywa kwesicelo;
- (c) isiphumo esinokubakho sokuvunywa kwesicelo;
- (d) ukungxamiseka kokuvunywa kwesicelo okanye ukungxamiseka komcimbi; kwaye
- (e) imfuneko yokukhuthaza ulawulo olusebenzayo nolawulo olulungileyo”.

Ukwenziwa kwezilungiso kwicandelo 68 loMthetho 3 ka-2014

26. Icandelo 68 loMthetho oyintloko owenziwa izilungiso liyalungiswa—

- (a) ngokutshintshwa kwecandelo (c) lecandelwana (1) lomhlathi olandelayo:
 “ukuthatha naliphi na inyathelo eligunyazisiweyo phantsi kwalo Mthetho ukunyanzelisa **[imigaqo okanye]** imiqathango yolwamkelo olunike phantsi kwecandelo 54 okanye 56(6) okanye ukulungisa utyeshelo lwalo okanye utyeshelo lwecandelo 53(1).”

Ukwenziwa kwezilungiso zolungelelaniso lwamacandelo oMthetho 3 ka-2014

27. Ulungiselelo lwamacandelo phambi kwecandelo 1 loMthetho oyintloko owenziwa izilungiso luyalungiswa—

- (a) ngokutshintshwa kwesalathiso kwicandelo 11 loku kulandelayo:-
 “11. Ukwamkelwa **[okanye ukulungiswa]** kwezikhokelo zophuhliso lwesithuba zikamasipala okanye izikhokelo zophuhliso lomhlaba ezilungisiweyo zikamasipala”;
- (b) ngokutshintshwa kwesalathiso kwicandelo 19 lale ndawo ilandelayo:
 “19. Ukuthotyelwa okanye ukuhambelana, kunye nokutenxa, izikhokelo zophuhliso lwesithuba **[okanye izicwangciso zesakhiwo]**”.

Amanyathelo enguqu

28. Isicelo sokusetyenziswa komhlaba okanye isicelo sophuhliso lomhlaba esenziwe phambi kokuba lo Mthetho uqalise ukusebenza esingekagqityezelwa phambi kokuqalisa kwalo Mthetho ukusebenza kufuneka sigqitywe ngokungathi lo Mthetho awusebenzi.

Isihloko esifutshane kunye nesiqalo

29. Lo Mthetho ubizwa ngokuba nguMthetho woLungiso loCwangciso lokuSetyenziswa koMhlaba weNtshona Koloni, ka-2023 kwaye uya kuqalisa ukusebenza ngomhla omiselwe yiNkulumbuso ngokuwupapasha kwi*Gazethi yePhondo*.

IMEMORANDAM KWIINJONGO ZOMTHETHO SIHLOMELO OYILWAYO WESICWANGCISO SOSETYENZISO LOMHLABA WENTSHONA KOLONI, 2023

1. IMVELAPHI

- 1.1. UMthetho oYilwayo woCwangciso loSetyenziso loMhlaba weNtshona Koloni (“uMthetho Sihlomelo oYilwayo”) uceba izilungiso kumacandelo ahlukeneyo oMthetho woCwangciso loSetyenziso loMhlaba weNtshona Koloni (uMthetho 3 ka2014) (“uMthetho”). Izilungiso ezicetywayo zijoliswe ekuphuculeni isikhokelo sezomthetho esimiselwa nguMthetho wocwangciso nophuhliso, kunye nasekucutheni imiqobo nemimiselo egqithisileyo, ngokubhekiselele kumava asebenzayo afunyenwe ngexesha lokusetyenziswa koMthetho.
- 1.2. UMthetho wamkelwa ngowama31 Matshi 2014. Ukuqaliswa koMthetho kwahlulwa ngokubhekiselele koomasipala abohlukeneyo ngesithuba sonyaka ka2015 ukuya ku2016.
- 1.3. Lo Mthetho upapashwe ngexesha apho oomasipala abaninzi baseNtshona Koloni bebewinkqubo yokwamkelwa kwemithetho kamasipala kucwangciso lokusetyenziswa komhlaba kamasipala. Lo Mthetho waqinisekisa ukuba ngeli xesha lotshintsho lwenkqubo yohlengahlengiso lomthetho, oomasipala baphumeza iimfuneko ezithile kwaye bathobela ubuncinci bemigangatho ethile.
- 1.4. Ukusukela ngonyaka ka2016, bonke oomasipala eNtshona Koloni baye bamkela kwaye baphumeza imithetho kamasipala ethi, Phakathi kwezinye izinto inike impembelelo kule mfuno nemigangatho, iimfuno kwaye kuthotyelwe kubuncinane bemigangatho ethile. Lo Mthetho uphinde wajongwa kwakhona ngokwale mvelaphi kuthathelwa ingqalelo amava kamasipala. Ngesi sizathu, ezona mfuno zisezantsi kunye nemigangatho kwezinye iimeko ziyaqwalaselwa ngokutsha kwaye zihlengahlengiswe, kwaye kwezinye iimeko ziyathotywa ukuze kubonelelwe ngengqiqo eyongezelekileyo kamasipala kwiinkqubo zocwangciso lokusetyenziswa komhlaba.
- 1.5. Ezinye izilungiso ezicetywayo kulo Mthetho zijolise eukunciphiseni imiqobo kunye nolawulo olugqithisileyo, zijolise ekucaciseni ngakumbi izibonelelo ezithile kunye nokuphucula isicatshulwa, kwaye zijolise ekulungelelaniseni uMthetho kunye neeMeko zangoku, umzekelo, ngokususa izalathisi ezithile kwizicwangciso zesakhiwo ukuze zibonise ukuba zonke izicwangciso zolwakhiwo ziye zapheliswa ngoku kubo bonke oomasipala beNtshona Koloni.

2. IINJONGO ZOMTHETHO OSAYILWAYO

Iinjongo zoMthetho oYilwayo zezi—

- 2.1. Kukufaka nokulungisa iingcaciso ezithile;
- 2.2. Ukwazisa ukuba bhetyebhetye ngokuphathelele kwimiba eyahlukeneyo yolawulo lwephondo locwangciso lukamasipala, kubandakanywa apho isicelo sokwahlulahlula umhlaba singacwangcisa ngokwahlulwa kwixesha elizayo okanye olunye;
- 2.3. ukuphelisa imiqobo kunye nolawulo olugqithisileyo, ngokunxulumene nokubandakanyeka kwephondo kwizicelo zokusetyenziswa komhlaba;

- 2.4. ukulungelelanisa noMthetho kunye nomthetho *iLocal Government: Municipal Systems Act 32 ka2000 (MSA)* malunga nokwamkelwa kwezikhokelo zophuhliso lomhlaba ezilungisiweyo;
- 2.5. ukususa iimfuno ezigqithisileyo kuMthetho olawula ukususwa kwemiqathango ethintelayo;
- 2.6. ukubonelela ngezindlu ezidityanisiweyo ukuba zibandakanywe njengemeko ekuvunyweni kwezicelo;
- 2.7. ukubonelela ngengqiqo ethe kratya koomasipala malunga nothethwano noluntu kunye nezinye iinkqubo anokuthi umasipala azilandeke phambi kokuba athathe izigqibo malunga nezicelo zokusetyenziswa komhlaba;
- 2.8. ukunciphisa uxanduva lolawulo oluvelayo xa uMphathiswa wePhondo efuna ukunika imvume yongxamiseko kunye nezigunyaziso phantsi koMthetho; kunye
- 2.9. nokwenza uphuculo kumbhalo.

3. IZIQULATHO ZOMTHETHO OSAYILWAYO

- 3.1. **Isolotya 1** libonelela ngolungiso lweenkcazelo ezichazwe kwicandelo 1 loMthetho ngolu hlobo lulandelayo:
 - 3.1.1. iinkcazelo ezintsha zifakelwe “izindlu ezidityanisiweyo” kunye nomthetho “*iSpatial Planning and Land Use Management Act*”;
 - 3.1.2. inkcazelo “yemiqathango ethintelayo” ilungiswe ukuze ihambelane nenkcazelo kumthetho *iSpatial Planning and Land Use Management Act, 2013* (uMthetho 16 ka2013) (SPLUMA) kunye nokususa ukungacaci kunye nokungaqiniseki okudalwe kukungabandakanywa kwinkcazelo yomhlaba osendaweni yomnye umnini obhaliswe kwitayitile yaloo ndawo okanye ezidala amalungelo angawo;
- 3.2. **Isolotya 2, 3, 4, 5 kunye nelama24** yenza izilungiso kwicandelo le10, 11, 13, 14 nelama-66 loMthetho ngokwahlukeneyo, ukubonisa imfuneko kwi-MSA enyanzelisa oomasipala ukuba bamkele isikhokelo sophuhliso lomhlaba esilungisiweyo.
- 3.3. **Isolotya 6** lenza izilungiso kwicandelo 19 loMthetho ukuze kususwe zonke izalathisi kwicandelo lezicwangciso zolwakhiwo Kwenziwa esinye isilungiso esibonelela ngokusetyenziswa okanye uphuhliso lomhlaba ocetywayo kwisicelo sokusetyenziswa komhlaba ukuze uthathwe ngokuba uhambelana nesikhokelo sophuhliso lwesithuba ukuba akunjalo. Esi silungiso sivumela oomasipala ukuba baphumeze izicelo zokusetyenzwa komhlaba ezingahambelani ngqo, okanye ezingayideleliyo, esona njongo neminqweno yayo ephambili. Ngapha koko, kwenziwa esinye isilungiso esidiza icebo lokusetyenziswa okanye lomsebenzi wophuhliso lomhlaba liyaphambuka kwisakhelo sophuhliso lomhlaba ukuba sithi singabi nxamnye okanye singahambelani nesikhokelo sophuhliso lomhlaba.
- 3.4. **Isolotya 7** lilungisa icandelo 35 loMthetho wokubonelela ukuba umasipala kufuneka acinge ngokubeka ixesha lokuqinisekiswa njengomqathango wokuvunywa xa evuma ukusetyenziswa kocando ngokutsha, ukuhamba okanye imvume yokusetyenziswa. Isizathu soku kukuba lo Mthetho awusenawo isolotya lokuphelelwa lixesha ngokuzenzekelayo,

kwaye ngoko ke ixesha lokusebenza kufuneka limiselwe njengomqathango owahlukileyo wokuvunywa.

- 3.5. **Isoloty 8** lilungisa icandelo 36 loMthetho ukubonelela ukuba, apho umenzisicelo efaka isicelo sokwahlulahlula kodwa engazimisela ukuqhubela phambili ukwahlula umhlaba okanye engazimisela ukwahlula loo mhlaba kwixesha elizayo, ezo zicelo akusayi kufuneka zibonise ukuba inxalenye echaphazelekayo yomhlaba icandiwe, okanye iya kubekwa, ngenjongo equka ulwahlulo. Olu lungiso luya kuthetha ukuba akusayi kuba yimfuneko ukuba wonke umhlaba ophantsi kwesicelo sokwahlulwahlulo kufuneka, apho kufuneka kwenziwe utshintsho kumhlaba othile, ucandwe ngokutsha njengenjongo equka ukwahlulwahlulwa komhlaba. Olunye ulungiso olucetywayo lubonelela ukuba, apho umenzisicelo eneenjongo zokuphinda awahlule umhlaba kwixesha elizayo, umasipala kufuneka enze imvume yakhe yocando lomhlaba olunemiqathango kwiimfuno zoxinaniso, usetyenziso lomhlaba olungundoqo kunye nobungakanani balo, kunye nakubonelelo lwesicwangciso sokuhlukanisa esineenkukacha. okanye isikhokelo. Ukongeza apha, isoloty 8 lenza izilungiso kwicandelo 36 ukuze libonelele ukuba, njengenye indlela yokubhalisa utshintshiselwano lobunini bomhlaba okanye iyunithi enye yomhlaba entsha eboniswe kwisicwangciso ngokubanzi, umenzisicelo angangenisa kumasipala isiqinisekiso setayitile ebhalisiweyo echaza ukuba Iyunithi yomhlaba eboniswe kumzobo okanye iyunithi enye yomhlaba entsha eboniswe kwisicwangciso ngokubanzi ibhaliswe. Ngapha koko, isoloty 8 lilungisa icandelo 36(9) ngenjongo yesidingo sokuba oomasipala benze icebo lokwenziwa kwesiqinisekiso sokwahlulahlula ngethuba okanye emva kokuthotyelwa kwezidingo ekubhekiswa kuzo kwicandelwana (8). Okokugqibela, kucetywa uhlehlengiso lobugcisa ukuze kucaciswe imfuno yokuba umasipala athathele ingqalelo ukumisela ixesha elisemthethweni njengemeko yolwamkelo xa ephumeza ulwahlulo.
- 3.6. **Isoloty 9** lenza izilungiso zobuchule kwicandelo 38 loMthetho ukucacisa imfuneko yokuba umasipala athathele ingqalelo yokumisela ixesha lokusebenza njengomqathango wokuvunywa xa evuma ukudityaniswa.
- 3.7. **Isoloty 10** lenza izilungiso kwicandelo 39 loMthetho ukuze libonelele ukuba kuphela ngabo bantu banamalungelo okanye ulindelo olusemthethweni oluya kuchaphazeleka ngokuphathekayo nangokungalunganga kukwamkelwa kwesicelo kufuneka baziswe ngesicelo sokususwa, sokunqunyanyiswa okanye sokulungiswa komqathango osisithintelo kwisithintelo. itayitile. Esi silungiso siza kuthomalalisa uxanduva lolawulo olunxulumene nokusetyenzwa kwesicelo, ngokulungelelanisa iimfuno nezo zichazwe kumthetho *iPromotion of Administrative Justice*, 2000 (uMthetho 30 ka2000) ('PAJA'). Imfuneko yokwazisa amanye amaqela anomdla nachaphazelekayo ngendlela yokupapasha kumaphephandaba iya kuhlala. Abanini abakude basenakho ukuphawula kwaye bathathe inxaxheba kwinkqubo, umahluko kuphela kukuba abazukunikwa isaziso buqu. Isoloty 10 likwalungisa icandelo 39 ukuze lisuse uxanduva kumasipala sokuthathela ingqalelo imiba echazwe kwicandelo 49(a) ukuya ku(e) loMthetho xa kuqwalaselwa isicelo sokususwa, sokunqunyanyiswa okanye sokulungiswa komqathango osisithintelo kwitayitile yobunini. Umasipala sele kufuneka, ngokwemimiselo yePAJA, ukuba athathele ingqalelo ukuqwalasela izinto xa zifanelekile kwisigqibo esithile ngokwemigqaliselo yecandelo 39 loMthetho, kwaye uMthetho sele ubonelela ngeengqwalaselo ezisisinyanzelo sokuqwalasela imiba ekwicandelo 49(a) ukuya ku(e) kuya kubangela ukususwa kwemiqobo kunye nolawulo olugqithisileyo. Ekugqibeleni, isoloty likwasusa iimfuno eziphantsi ezinyanzelekileyo ngokugqithisileyo kwicandelo 39. Ingqiqo yesi silungiso kukuba icandelo 42(1)(c) nelama47(2)(b) lomthetho *iSpatial Planning and Land Use Management Act*, 2013 (uMthetho we16 ka2013) ('SPLUMA'), kwakunye nemigaqo enikelwe kwicandelo 7, inike

ingqalelo eyaneleyo nesikhokelo somthetho kumasipala xa eqwalasela isicelo sokususwa, sokunqunyanyiswa okanye sokulungiswa komqathango osisithintelo. Ngaphaya koko, isicelo sokususwa, sokunqunyanyiswa okanye ukulungiswa komqathango osisithintelo sibandakanya isicelo sokusetyenziswa komhlaba, ngoko ke iwela kumda weengqwalasela ezifanelekileyo ezichazwe kwicandelo 49(a) – (e) loMthetho kwaye intsingiselo ethe ngqo kuyo kwicandelo 39 ngenxa yoko ayibalulekanga.

- 3.8. **Isolotya 11** ulungisa icandelo 40 loMthetho ukuze kubonelelwe ngezindlu ezidityanisiweyo njengemeko enokubakho yokuvunywa kwesicelo nokusetyenziswa komhlaba.
- 3.9. **Isolotya 12** lisusa imfuneko kwicandelo 42 loMthetho yokuba umenzisicelo kufuneka angenise imvume yomninimboleko (ukuba ikhona) njengenxalenye yesicelo sokusetyenziswa komhlaba.
- 3.10. **Isolotya 13** lithatha indawo yecandelo 43 loMthetho ngezibonelelo ezitsha ezinentso yokwenza neenkqubo zentathoxaxheba yoluntu ekufuneka oomasipala bazilandele xa beqwalasela isicelo ngokwalo Mthetho okanye nawuphi na omnye umthetho olawula ucwangciso lokusetyenziswa komhlaba. Ukutshintshwa kuya kunyanzelisa umasipala kuphela ukuba azise amalungu oluntu ngezicelo ezichaphazela kakhulu kwaye zichaphazela kakubi amalungelo oluntu okanye umdla woluntu. Olunye ulungiso olucetywayo lubonelela ngemigangatho emitsha yobuncinci yobuchwephesha kwizaziso, kwiindlela anokuthi ngazo umasipala apapashe isaziso, kumalungu oluntu ukuba acele ulwazi oluthe kratya malunga nezicelo kwiimeko ezithile, kunye nokuba oomasipala bahambe kumalungiselelo akwicandelo 43 yoMthetho ukuba kusengqiqweni kwaye ngokulinganayo kwiimeko. Amava afunyenwe ekuphonyezweni kwala macandelo alo Mthetho kukuba ezi zilungiso ziyimfuneko ukunika ukuguquguquka koomasipala ukuba balandele iinkqubo zentathoxaxheba yoluntu ezihambelana nezicelo ezithile kunye nezigqibo ekufuneka zithathwe apho kusengqiqweni kwaye ngokulinganayo ukwenza njalo, ukuze kuncitshiswe umthwalo wolawulo wezo nkqubo kwaye kupheliswe imiqobo.
- 3.11. **Isolotya 14** lithatha indawo yecandelo 44 loMthetho ngamagatya amatsha apha thelele kwisaziso kunye neenkqubo zokuvakalisa izimvo eziyalelwe umntu ngamnye, ekufuneka oomasipala bazilandele xa beqwalasela isicelo ngokwalo Mthetho okanye nawuphi na omnye umthetho olawulo ucwangciso lokusetyenziswa komhlaba. Utshintsho lususa imfuneko yokuba umasipala azise abantu abanamalungelo okanye ulindelolusemthethweni olungayi kuchaphazeleka ngokungafanelekanga sisigqibo sikamasipala esilandelayo. Olunye ulungiso olucetywayo lubonelela ngemigangatho emitsha yobuncinci yezaziso, kubandakanywa nokumisela ukuba isigqibo sikamasipala siya kupapashwa kwiwebhusayithi kamasipala, kunye noomasipala ukuba baphume kumalungiselelo akwicandelo 44 loMthetho ukuba linobulungisa kwaye linobulungisa kwiimeko ezinjalo.
- 3.12. **Isolotya 15** lenza izilungiso kwiCandelo 45 loMthetho ukuze kuncitshiswe inani leemeko ezisisinyanzelo apho umasipala kufuneka acele izimvo zephondo malunga nesicelo sokusetyenziswa komhlaba. Ezi mfundo zilandelayo ziyalungiswa okanye ziyasuswa:
- 3.12.1. Imfuno yokufumana uluvo lwephondo malunga nophuhliso olungaphandle komda ocetyiweyo kamasipala wangaphandle wokwandiswa kwedolophu endaweni yawo kufakwe imfuno yokuba kufunyanwe izimvo zephondo kuso nasiphi na isicelo esitenxayo kwisikhokelo sophuhliso lomhlaba sikamasipala;

- 3.12.2. Imfuno yokufumana uluvo lwephondo malunga nophuhliso olungaphandle komda ocetyiweyo kamasipala wangaphandle wokwandiswa kwedolophu endaweni yawo kufakwe imfuno yokuba kufunyanwe izimvo zephondo kuso nasiphi na isicelo esitinxayo kwisikhokelo sophuhliso lomhlaba sikamasipala.;
- 3.12.3. imfuneko yokufumana uluvo lwephondo malunga nocando lomhlaba omiselwe ulimo okanye ulondolozo isusiwe yaze yasiwa kwenye indawo kwicandelo 45(1)(e), elibonelela ngemfuneko yokufumana uluvo lwephondo apho uphuhliso luchaphazela nawuphi na ummandla wentsebenzo wephondo.

Ukongeza, isolotya 15 lenza izilungiso kwicandelo 45 loMthetho ngokunciphisa ixesha apho iNtloko yeSebe kufuneka ingenise izimvo zephondo ezibhaliweyo kumphathi kamasipala ngesicelo sokusetyenziswa komhlaba ukusuka kwiintsuku ezingama-60 ukuya kwiintsuku ezingama-30 zokucela izimvo.

- 3.13. **Isolotya 16** lenza izilungiso kwicandelo 47 loMthetho ukuze kuncitshiswe ixesha apho iziko likarhulumente kufuneka livakalise izimvo zalo ngesicelo sokusetyenziswa komhlaba ukusuka kwiintsuku ezingama-60 ukuya kwiintsuku ezingama-30 zokucela izimvo.
- 3.14. **Isolotya 17** lenza izilungiso kwicandelo 49 loMthetho ngokususa imfuneko ekwicandelo 49(b) yokuba umasipala athathele ingqalelo izicwangciso zesakhiwo esisebenzayo xa esenza isigqibo ngesicelo sokusetyenziswa komhlaba.
- 3.15. **Isolotya 18** lenza izilungiso kwicandelo 50 loMthetho ngokuthi lithintele imfuneko yokuba umasipala azise abantu ngaphandle komezisicelo ngesigqibo esikhankanywe kwiSahluko IV soMthetho kwabo bangenise izimvo zabo ngesicelo. Esinye isihlomelo esicetywayo sibonelela ngemfuneko yokuba isaziso sibonelele izizathu zesigqibo, sazise umntu owamkelayo ngelungelo lokubhena kwisigqibo ngexesha elibekiweyo kunye nezona nkukacha zincinci zifunekayo kwisibheno, nokuba isigqibo sipapashwe kwisibheno eso. Iwebhusayithi kamasipala kangangeentsuku ezingama-90, ixelela uluntu olunamalungelo achaphazeleka ngokwezinto eziphathekayo kunye nokuchatshazelwa kakubi sisigqibo sesigqibo, izizathu zesigqibo kunye nelungelo lokubhena. Oku kuya kunciphisa umthwalo wolawulo koomasipala, kwaye kuya kunciphisa inkqubo yesibheno, njengoko kungasayi kubakho mfuneko yokuba kucelwe ngokwahlukeneyo izizathu zesigqibo. Ngaphezu koko, izilungiso ziya kwenza amalungu oluntu angazange aziswe ngembalelwano ukuba acetyiswe ngesigqibo kunye namalungelo abo enkqubo.
- 3.16. **Isolotya 19** lifakela icandelwana (5) elitsha kwicandelo 51 loMthetho, ukuze lichaze ukuba akukho nto kwicandelo 51 inqanda umntu ukuba aqalise inkqubo yokuhlolwa kwenkundla njengoko kuxelwe kwisiqu 6 somthetho iPromotion of Administrative Justice Act, 2000 (uMthetho 3 ka-2000).
- 3.17. **Isolotya 20** lenza izilungiso kwicandelo 54 loMthetho ngokususa imfuneko yokuba isigqibo ngesicelo sophuhliso lomhlaba sipapashwe kumaphephandaba nakwiGazethi yePhondo, lifake endaweni yalo imfuneko yokuba eso sigqibo sipapashwe kwiwebhusayithi yeSebe kangangeentsuku ezingama-90, apho isaziso kufuneka iSebe lazise uluntu olumalungelo abo achatshazelwa ngokubonakalayo nangokungalunganga sisigqibo, ngesigqibo kunye nezizathu zesigqibo kunye nelungelo lokubhena. Olunye utshintsho olucetywayo lunika iNtloko yeSebe igunya lokuqonda ukuba ngaba isazise isigqibo nolwazi olukhankanywe ngasentla ngenye okanye ngeendlela ezininzi, kuquka kumaphephandaba asasazwa kummandla ochaphazelekayo okanye kwiGazethi yePhondo, okanye ngeendlela zonxibelelwano ngokusebenzisa imithombo yeendaba eprintiweyo okanye ye-elektroniki,

kwaye kwakhona ngokumisela ukuba isaziso eso kumenzisicelo nakubani na obeke inkcaso kwisicelo kufuneka aziswe ngezizathu zesigqibo, kwakunye nelungelo lakhe lokubhena, apho kufanelekileyo.

- 3.18. **Isoloty 21** lenza izilungiso kwicandelo 55 loMthetho ngokususa imfuneko ekwicandelo 55(c)(ii) yokuba iNtloko yeSebe kufuneka ithathele ingqalelo izicwangciso zesakhiwo esisebenzayo xa iqwalasela naxa isenza isigqibo ngesicelo solwakhiwo emhlabeni.
- 3.19. **Isoloty 22** lenza isilungiso kwicandelo 60 (5) ukuze linike uMphathiswa wePhondo ithuba lokwazisa iKhabhinethi yePhondo ngesigqibo, kwimeko engxamisekileyo, sokugunyazisa umasipala ukuba aphambuke kwimiqathango yoMthetho okanye kwimeko yegunya, msinyane kangangoko kunokwenzeka (kunokuba kungadlulanga iiyure ezingama-48) emva kokuba kuthatyathwe isigqibo sokunikezela ngokuphambuka. Olunye utshintsho luthatha indawo yesibophelelo sokungenisa ingxelo malunga nesigqibo kwiKhabhinethi yePhondo kwisithuba seentsuku ezili-14, kunye noxanduva lokungenisa ingxelo ukuba uMphathiswa wePhondo ucinga ukuba kuyimfuneko kwiimeko, ngokukhawuleza kangangoko kunokwenzeka. Ezi zilungiso ziyafuneka njengoko ukuphunyezwa kwala masoloty akulo Mthetho kubonise ukuba, kwiimeko ezingxamisekileyo, iimfuno zinzima ngokungeyomfuneko kwaye azinakwenzeka, ngelixa iKhabhinethi yePhondo iya kuba nako ukubeka iliso ngokwaneleyo ukuba iimfuno zithotywe ukuya kumgangatho ochatshazelwe kwizilungiso
- 3.20. **Isoloty 23** lenza izilungiso kwicandelo 61 loMthetho ngokuthi umasipala angazikhulula kwizicelo zolwahlulomhlaba okanye zodityaniso oluvela ekusekweni okanye ekulungisweni kwenkqubo yophuhliso njengoko kuchaziwe kwicandelo 1(1) lomthetho iSectional Titles Act, 1986 (uMthetho 95 ka1986) (i'STA'), ngokweemfuno eziqhelekileyo zezo zicelo kumacandelo 36(1) kunye nama-38(1) oMthetho, ngokulandelelanayo. Iinkcazelo zangoku "zomhlaba" kunye "neyunithi yomhlaba" kwiSPLUMA kunye noMthetho uneziphumo ebezingalindelekanga zokuba uphuhliso lweskim setayitile yecandelo lufuna imvume kamasipala. Ekubeni iinkcazelo zeSPLUMA zingenako ukutshintshwa, esona sisombululo sisebenzayo kukukhulula uphuhliso lweskim setayitile yecandelo, njengoko kuchaziwe ngokwemiqathango yeSTA ekuvunyweni kukamasipala. Isoloty 23 kananjalo lenza isilungiso sobuchule kwicandelo 61 ukucacisa ukuba umthetho ekubhekiswa kuwo ulawula ukwahlulwa komhlaba ubhekiselele kuphela kwizicelo zokwahlulwa komhlaba wezolimo, hayi ukudityaniswa komhlaba.
- 3.21. **Isoloty 25** lenza izilungiso kwicandelo 67 loMthetho ukuze kususwe imfuneko yokuba umasipala okanye iNtloko yeSebe isebenzise kuphela inkqubo emiselwe phantsi komnye umthetho ukwenza isigqibo ngesicelo esiphantsi koMthetho ukuba loo nkqubo ithobela ngokungqongqo iimfuno zoMthetho. Endaweni yoko, imfuno yaziswa ukuba inkqubo komnye umthetho ingasetyenziswa kuphela ukuba isengqiqweni kwaye ngokulinganayo ukwenza oko, emva kokuthathela ingqalelo phakathi kwezinye izinto iinjongo zoMthetho. Esi sihlomelo siza kwenza lula umthwalo olawulayo wokusetyenzwa kwezicelo kwaye sikhuthaze ukudityaniswa kweenkqubo phantsi kwemithetho emininzi.
- 3.22. **Isoloty 26** lenza isilungiso sobuchule kwicandelo 68(1)(c) loMthetho ngokususa ibinzana elithi "imigaqo okanye" kwicandelo.
- 3.24. **Isoloty 27** lenza izilungiso kulo Mthetho ngokwenza izilungiso kulungiselelo lwamacandelo ukuze lihambelane nezilungiso kulo Mthetho.

3.26. **Isolotya 28** libonelela ngexesha lenguqu apho isicelo sokusetyenziswa komhlaba okanye isicelo sophuhliso lomhlaba esenziwe phambi kokuba kuwiswe uMthetho oYilwayo woLungiso, kwaye uqale ngokungekagqityezelwa phambi kokuba kuqaliswe, kufuneka kuqunjelwe ngokungathi uYilo loMthetho oYilwayo oLungisiweyo awukamiselwanga kwaye uqalisiwe.

3.27. **Isolotya 29** libonelela ngesihloko esifutshane kunye nokuqalisa koMthetho oYilwayo woLungiso.

4. UTHETHWANO

ISebe leNkulumbuso: iiNkonzo zoMthetho

5. IFUTHE LABASEBENZI

Alikho

6. IFUTHE LEZIMALI

Alikho

7. IGUNYA LOKWENZA UMTHETHO

UMphathiswa wePhondo ojongene noRhulumente weNgingqi, iMicimbi yokusiNgqongileyo kunye noCwangciso loPhuhliso wanelisekile ukuba izibonelelo zoMthetho oYilwayo ziphantsi kwegunya lokwenza umthetho wePhondo.

