

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

TUESDAY, 18 FEBRUARY 2014

COMMITTEE REPORTS

1. (*Negotiating mandate stage*) Report of the Standing Committee on Community Development on the *Judicial Matters Third Amendment Bill* [B 53–2013] (NCOP), dated 14 February 2014, as follows:

The Standing Committee on Community Development, having considered the subject of the *Judicial Matters Third Amendment Bill* [B 53–2013] (NCOP), referred to the Committee in terms of Standing Rule 220, confers on the Western Cape's delegation in the NCOP the authority to support the Bill.

The Committee agrees to the following proposed amendment–

- (a) The Standing Committee of Community Development recommends in Clause 2 that the categories of persons responsible for the assessment of the cognitive, moral, emotional, psychological and social development of the child and the timeframes for the presentation of these reports be clearly identified in the *Judicial Matters Third Amendment Bill* [B 53–2013] (NCOP).
2. (*Negotiating Mandate stage*) Report of the Standing Committee on Agriculture and Environmental Planning on the *National Environmental Management: Integrated Coastal Management Amendment Bill* [B 8B–2013] (NCOP), dated 11 February 2014, as follows:

The Standing Committee on Agriculture and Environmental Planning, having considered the subject of the *National Environmental Management: Integrated Coastal Management Amendment Bill* [B 8B–2013] (NCOP), referred to the Committee in terms

of the Standing Rule 220, confers on the Western Cape's delegation in the NCOP the authority to support the Bill with the following amendment:

Insertion of section 7A in Act 24 of 2008

6. The principal Act is hereby amended by the deletion of Section 7B and Section 7C and the insertion after section 7A of the following sections.

“Reclamation of Land from Coastal Waters

- 7B.** (1) No person may reclaim land unless authorised by the Minister.
- (2) The Minister may, on application, approve reclamation, and such authorisation may be subject to any conditions or title deed restrictions that the Minister may deem necessary.
- (3) When the Minister considers an application and imposes any condition or restriction referred to in subsection (2), the Minister must consider –
- (a) whether the application has an authorisation in terms of Chapter 5 of the National Environmental Management Act;
 - (b) whether the purpose of the reclamation is for the development of state infrastructure or for purposes other than state infrastructure by an organ of state or for private commercial gain; and
 - (c) whether there is any alternative land available.
- (4) Land reclaimed in terms of subsection 2 forms part of state-owned land which may be alienated in terms of the applicable legislation. This provision shall not apply to land which has been lawfully alienated prior to this provision coming into effect.
- (5) An application for reclamation must record the purpose for which the land is to be reclaimed.
- (6) Unless authorised by the Minister, land reclaimed in terms of subsection (2) may not be utilised other than in accordance with the purpose stated in the original application and conditions of authorisation.
- (7) Before making a decision in terms of this section, the Minister must consult with any organ of state that may be affected by such decision.

Composition of coastal public property

- 7. (1)** Coastal public property consists of–
- (a) coastal waters;
 - (b) land submerged by coastal waters including –
 - (i) land flooded by coastal waters which subsequently becomes part of the bed of coastal waters; and
 - (ii) the substrata beneath such land;
 - (c) any natural island within coastal waters;
 - (d) the seashore, including –
 - (i) the seashore of a natural or reclaimed island; and
 - (ii) the seashore of reclaimed land;
 - (e) subject to subsection (2)(f), any admiralty reserve owned by the State;
 - (f) any land owned or controlled by the State declared under section 8 to be coastal public property; or
 - (g) any natural resource on or in any coastal public property of a category mentioned in paragraphs (a) to (f).

(2) Notwithstanding the provisions of subsection (1), coastal public property does not include—

- (a) any immovable structure, or part of an immovable structure, including harbour installations and infrastructure, whether located on land or the seabed, lawfully constructed by an organ of state;
- (b) any portion of the seashore below the high-water mark, which was lawfully alienated before the Sea-shore Act, 1935 (Act No. 21 of 1935) took effect, or which was lawfully alienated in terms of that Act, and which has not subsequently been re-incorporated into the seashore;
- (c) any part of an island that was lawfully alienated before this Act commenced;
- (d) any portion of a coastal cliff that-
 - (i) was lawfully alienated before this Act took effect; and
 - (ii) is not owned by the State;
- (e) any land which has been lawfully alienated and which is excluded from State owned land by virtue of section 7A(4) of this Act; or
- (f) any land or structure located within an admiralty reserve that is subject to a lawful lease from the State.”

3. (*Negotiating Mandate stage*) Report of the Standing Committee on Agriculture and Environmental Planning on the *National Environmental Management: Air Quality Amendment Bill* [B 27B–2013] (NCOP), dated 11 February 2014, as follows:

The Standing Committee on Agriculture and Environmental Planning, having considered the subject of the *National Environmental Management: Air Quality Amendment Bill* [B 27B–2013] (NCOP), referred to the Committee in terms of the Standing Rule 220, confers on the Western Cape’s delegation in the NCOP the authority to support the Bill with the following amendments:

Amendment of section 1(a) of Act 39 of 2004

By replacing the definition of “**Commissioning**” from “the commencement of a listed activity” to “the initiation of the testing and operation of a listed activity;”;

Amendment of section 36 of Act 39 of 2004

5. Section 36 of the principal Act is hereby amended-

(c) by the addition of the following subsections:

“(5) *Notwithstanding subsections (1) to (4), the Minister is the licencing authority and must, in consultation with the relevant provincial and municipal authority where the listed activity is located, perform the functions of the licencing authority if—*”

Amendment of section 41 of Act 39 of 2004

9. (3) “*A provisional atmospheric emission licence is valid for a period of one year from the date of the commissioning of the listed activity, or for a period as may be determined by a licencing authority, and may be extended for [an additional one year] a further period on good cause shown to the licencing authority*”.

4. (*Negotiating Mandate stage*) Report of the Standing Committee on Agriculture and Environmental Planning on the *Marine Living Resources Amendment Bill* [B 30B–2013] (NCOP), dated 11 February 2014, as follows:

The Standing Committee on Agriculture and Environmental Planning, having considered the subject of the *Marine Living Resources Amendment Bill* [B 30B–2013] (NCOP), referred to the Committee in terms of the Standing Rule 220, confers on the Western Cape’s delegation in the NCOP the authority to support the Bill with the following amendment:

Amendment of section 1 of Act 18 of 1998

It is proposed that the fourth category, which seeks to define a “small-scale fishing community” as “...*a group of persons who (iv) regard themselves as a small-scale fishing community;*” be deleted in its entirety.

Clause 1 of the Bill proposes that section 1 of the principal Act be amended by the insertion of certain definitions. In particular, Clause 1 seeks to define “*small-scale fishing community*”, and proceeds to list four groups of persons that would constitute a “*small-scale fishing community*”.

It is submitted that the first three groups/categories of persons all share a common characteristic: namely a **historical** connection or affinity to a particular area or way of life. It is further submitted that the fourth category would allow for a group of persons, who DO NOT have this traditional or historical connection, to, in future, due to e.g. depleting resources elsewhere, establish themselves as a new “small-scale fishing community”, and they may now legally do so, since they will now, prospectively, “*regard themselves as a small-scale fishing community*”.

It is further submitted that this may give rise to unintended consequences, as it may create the legal space, over and above the usual urbanisation, for an influx of people to sensitive areas, all vying for limited and depleting marine resources. In turn, it is submitted, this may contribute to heightening tensions within already vulnerable communities, which may create polarised and fertile grounds for intra-community strife.

It is accordingly submitted that the deletion of the provision creating this fourth category of persons, would not jeopardise or scupper the primary objective and intrinsic intention of the Bill. It is submitted that whatever may have been intended by the addition of the fourth category of persons, can, through interpretation, quite readily be subsumed in the three preceding provisions.

PARLEMENT VAN DIE PROVINSIE WES-KAAP

AANKONDIGINGS, TERTAFELLEGGINGS EN KOMITEEVERSLAE

DINSDAG, 18 FEBRUARIE 2014

KOMITEEVERSLAE

1. (*Onderhandelingsmandaatstadium*) Verslag van die Staande Komitee oor Gemeenskapsontwikkeling oor die *Judicial Matters Third Amendment Bill* [B 53–2013] (NRVP), gedateer 14 Februarie 2014, soos volg:

Nadat die Staande Komitee oor Gemeenskapsontwikkeling oorweging geskenk het aan die onderwerp van die *Judicial Matters Third Amendment Bill* [B 53–2013] (NRVP), wat ingevolge Staande Reël 220 na die Komitee verwys is, het hy die Wes-Kaapse afvaardiging in die Nasionale Raad van Provinsies met die gesag beklee om die Wetsontwerp te ondersteun.

Die Komitee kom ooreen oor die volgende voorgestelde amendement–

- (a) Die Staande Komitee oor Gemeenskapsontwikkeling beveel in Klousule 2 aan dat die kategorieë persone wat vir die assessering van die kognitiewe, morele, emosionele, sielkundige en sosiale ontwikkeling van die kind verantwoordelik is en die tydraamwerke vir die aanbieding van hierdie verslae duidelik in die *Judicial Matters Third Amendment Bill* [B 53–2013] (NRVP) geïdentifiseer moet word.
2. (*Onderhandelingsmandaatstadium*) Verslag van die Staande Komitee oor Landbou en Omgewingsbeplanning oor die *National Environmental Management: Integrated Coastal Management Amendment Bill* [B 8B–2013] (NRVP), gedateer 11 Februarie 2014, soos volg:

Nadat die Staande Komitee oor Landbou en Omgewingsbeplanning oorweging geskenk het aan die onderwerp van die *National Environmental Management: Integrated Coastal Management Amendment Bill* [B 8B–2013] (NRVP), wat ingevolge Staande Reël 220 na die Komitee verwys is, het hy die Wes-Kaapse afvaardiging in die Nasionale Raad van

Provinsies met die gesag beklee om die Wetsontwerp met die volgende amendement te ondersteun.

Invoeging van artikel 7A by Wet 24 van 2008

6. Die hoofwet word hiermee gewysig deur die skraping van artikel 7B en artikel 7C en die invoeging van die volgende artikels ná artikel 7A:

“Reclamation of Land from Coastal Waters

- 7B.** (1) No person may reclaim land unless authorised by the Minister.
- (2) The Minister may, on application, approve reclamation, and such authorisation may be subject to any conditions or title deed restrictions that the Minister may deem necessary.
- (3) When the Minister considers an application and imposes any condition or restriction referred to in subsection (2), the Minister must consider –
- (a) whether the application has an authorisation in terms of Chapter 5 of the National Environmental Management Act;
 - (b) whether the purpose of the reclamation is for the development of state infrastructure or for purposes other than state infrastructure by an organ of state or for private commercial gain; and
 - (c) whether there is any alternative land available.
- (4) Land reclaimed in terms of subsection 2 forms part of state-owned land which may be alienated in terms of the applicable legislation. This provision shall not apply to land which has been lawfully alienated prior to this provision coming into effect.
- (5) An application for reclamation must record the purpose for which the land is to be reclaimed.
- (6) Unless authorised by the Minister, land reclaimed in terms of subsection (2) may not be utilised other than in accordance with the purpose stated in the original application and conditions of authorisation.
- (7) Before making a decision in terms of this section, the Minister must consult with any, organ of state that may be affected by such decision.

Composition of coastal public property

- 7. (1)** Coastal public property consists of–
- (a) coastal waters;
 - (b) land submerged by coastal waters including –
 - (i) land flooded by coastal waters which subsequently becomes part of the bed of coastal waters; and
 - (ii) the substrata beneath such land;
 - (c) any natural island within coastal waters;
 - (d) the seashore, including –
 - (i) the seashore of a natural or reclaimed island; and
 - (ii) the seashore of reclaimed land;
 - (e) subject to subsection (2)(f), any admiralty reserve owned by the State;
 - (f) any land owned or controlled by the State declared under section 8 to be coastal public property; or
 - (g) any natural resource on or in any coastal public property of a category mentioned in paragraphs (a) to (f).

(2) Notwithstanding the provisions of subsection (1), coastal public property does not include—

- (a) any immovable structure, or part of an immovable structure, including harbour installations and infrastructure, whether located on land or the seabed, lawfully constructed by an organ of state;
- (b) any portion of the seashore below the high-water mark, which was lawfully alienated before the Sea-shore Act, 1935 (Act No. 21 of 1935) took effect, or which was lawfully alienated in terms of that Act, and which has not subsequently been re-incorporated into the seashore;
- (c) any part of an island that was lawfully alienated before this Act commenced;
- (d) any portion of a coastal cliff that-
 - (i) was lawfully alienated before this Act took effect; and
 - (ii) is not owned by the State;
- (e) any land which has been lawfully alienated and which is excluded from State owned land by virtue of section 7A(4) of this Act; or
- (f) any land or structure located within an admiralty reserve that is subject to a lawful lease from the State.”

3. *(Onderhandelingsmandaatstadium)* Verslag van die Staande Komitee oor Landbou en Omgewingsbeplanning oor die *National Environmental Management: Air Quality Amendment Bill* [B 27B–2013] (NRVP), gedateer 11 Februarie 2014, soos volg:

Nadat die Staande Komitee oor Landbou en Omgewingsbeplanning oorweging geskenk het aan die onderwerp van die *National Environmental Management: Air Quality Amendment Bill* [B 27B–2013] (NRVP), wat ingevolge Staande Reël 220 na die Komitee verwys is, het hy die Wes-Kaapse afvaardiging in die Nasionale Raad van Provinsies met die gesag bekleed om die Wetsontwerp met die volgende amendemente te ondersteun.

Wysiging van artikel 1(a) van Wet 39 van 2004

Vervanging van die definisie “**Commissioning**” van “the commencement of a listed activity” na “the initiation of the testing and operation of a listed activity;”;

Wysiging van artikel 36 van Wet 39 van 2004

5. Artikel 36 van die hoofwet word hiermee gewysig-

(c) by the addition of the following subsections:

“(5) *Notwithstanding subsections (1) to (4), the Minister is the licencing authority and must, in consultation with the relevant provincial and municipal authority where the listed activity is located, perform the functions of the licencing authority if—*”

Wysiging van artikel 41 van Wet 39 van 2004

9. (3) *A provisional atmospheric emission licence is valid for a period of one year from the date of the commissioning of the listed activity, or for a period as may be determined by a licencing authority, and may be extended for [an additional one year] a further period on good cause shown to the licencing authority”.*

4. (*Onderhandelingsmandaatstadium*) Verslag van die Staande Komitee oor Landbou en Omgewingsbeplanning oor die *Marine Living Resources Amendment Bill* [B 30B–2013] (NRVP), gedateer 11 Februarie 2014, soos volg:

Nadat die Staande Komitee oor Landbou en Omgewingsbeplanning oorweging geskenk het aan die onderwerp van die *Marine Living Resources Amendment Bill* [B 30B–2013] (NRVP), wat ingevolge Staande Reël 220 na die Komitee verwys is, het hy die Wes-Kaapse afvaardiging in die Nasionale Raad van Provinsies met die gesag bekleed om die Wetsontwerp met die volgende amendement te ondersteun.

Wysiging van artikel 1 van Wet 18 van 1998

Daar word voorgestel dat die vierde kategorie wat ’n “small-scale fishing community” wil omskryf as “...a group of persons who (iv) regard themselves as a small-scale fishing community;” in sy geheel geskrap word.

Klousule 1 van die Wetsontwerp stel voor dat artikel 1 van die hoofwet gewysig word deur die invoeging van sekere definisies. Veral Klousule 1 poog om “*small-scale fishing community*”, te omskryf en gaan voort om vier groepe te lys met persone wat ’n “*small-scale fishing community*”.

Daar word aangevoer dat die eerste drie groepe/kategorieë persone almal ’n gemene eienskap deel: naamlik ’n **historiese** konneksie of affiniteit vir ’n spesifieke gebied of lewenswyse. Voorts word daar aangevoer dat die vierde kategorie sal toelaat dat ’n groep mense wat NIE hierdie tradisionele of historiese konneksie het nie, in die toekoms hulle as gevolg van, byvoorbeeld, uitgedunde hulpbronne elders as ’n nuwe “small-scale fishing community” vestig en hulle kan nou wettig dit doen omdat hulle nou vooruitwerkend “*regard themselves as a small-scale fishing community*”.

Voorts word aangevoer dat dit tot onbedoelde gevolge aanleiding kan gee omdat dit die wettige ruimte, bo en behalwe die gewone verstedeliking, mag skep vir die instroming van mense, wat almal om die beperkte en uitgedunde seehulpbronne meeding, na sensitiewe gebiede. Daar word aangevoer dat dit weer tot verhoogde spanning in reeds kwesbare gemeenskappe kan lei, wat gepolariseerde en vrugbare grond vir verdeeldheid binne die gemeenskap kan skep.

Dienooreenkomstig word daar aangevoer dat die skraping van die bepaling wat hierdie vierde kategorie mense skep nie die hoofdoel en werklike bedoeling van die Wetsontwerp in gevaar sal stel of laat misluk nie. Daar word aangevoer dat, wat ook al beoog is met die byvoeging van die vierde kategorie mense, geredelik deur interpretasie in die drie voorafgaande bepalings opgeneem kan word.

Nomb 5 - 2014] ISESHONI YESITHANDATHU, IPALAMENTE YESINE

IPALAMENTE YEPHONDO LENTSHONA KOLONI

IZAZISO, IMICIMBI EZA KWANDLALWA NEENGXELO ZEKOMITI

LWESINE, 18 FEBRUWARI 2014

IINGXELO ZEKOMITI

1. *(Isigaba segunya soThethathethwano)* INgxelo yeKomiti eSisigxina kuPhuhliso loLuntu ngoMthetho oSayilwayo woLungiso wesiThathu weMiba yezoBulungisa [B 53–2013] (NCOP), ebhalwe owe-14 Februwari 2014, ngolu hlobo lulandelayo:

IKomiti eSisigxina kuPhuhliso loLuntu, emva kokuqwalasela umba woMthetho oSayilwayo woLungiso wesiThathu weMiba yezoBulungisa [B 53–2013] (NCOP), othunyelwe kwiKomiti ngokwemigaqo yoMthetho oSisigxina 220, inikezela kwigqiza laseNtshona Koloni kwi-NCOP igunya lokuxhasa uMthetho oSayilwayo.

IKomiti ivumelana ngesi sislungiso siphakanyisiweyo silandelayo –

- (a) IKomiti eSisigxina kuPhuhliso loLuntu indulula kwiSolotya 2 ukuba izintlu zabantu abanoxanduva lophononongo lophuhliso lokuqonda, olwentsulungeko, olwasemoyeni, olwasengqondweni nolwezentlalo lomntwana kwakunye namaxesha asikelwe ukungeniswa kwezi ngxelo achongwe ngokucacileyo kuMthetho oSayilwayo woLungiso wesiThathu weMiba yezoBulungisa [B 53–2013] (NCOP).
2. *(Isigaba segunya soThethathethwano)* INgxelo yeKomiti eSisigxina kwezoLimo noCwangciso lwezokusiNgqongileyo ngoLawulo lwezokusiNgqongileyo kukaZwelonke: uMthetho oSayilwayo woLungiso woLawulo lwaManxweme aDibeneyo [B 8B–2013] (NCOP), ebhalwe owe-11 Februwari 2014, ngolu hlobo lulandelayo:

IKomiti eSisigxina kwezoLimo noCwangciso lwezokusiNgqongileyo, emva kokuqwalasela umba woLawulo lwezokusiNgqongileyo kukaZwelonke: uMthetho oSayilwayo woLungiso woLawulo lwaManxweme aDibeneyo [B 8B–2013] (NCOP), othunyelwe kwiKomiti ngokwemigaqo yoMthetho oSisigxina 220, inikezela kwigqiza

laseNtshona Koloni kwi-NCOP igunya lokuxhasa uMthetho oSayilwayo unesi silungiso silandelayo:

Ufakelo lwecandelo 7A kuMthetho 24 ka-2008

6. UMthetho oyintloko kungoku nje uyalungiswa ngokususwa kweCandelo 7B kwaneCandelo 7C kuze kufakelwe emva kwecandelo 7A eli candelo lilandelayo:

“Reclamation of Land from Coastal Waters

- 7B.** (1) No person may reclaim land unless authorised by the Minister.
- (2) The Minister may, on application, approve reclamation, and such authorisation may be subject to any conditions or title deed restrictions that the Minister may deem necessary.
- (3) When the Minister considers an application and imposes any condition or restriction referred to in subsection (2), the Minister must consider –
- (a) whether the application has an authorisation in terms of Chapter 5 of the National Environmental Management Act;
 - (b) whether the purpose of the reclamation is for the development of state infrastructure or for purposes other than state infrastructure by an organ of state or for private commercial gain; and
 - (c) whether there is any alternative land available.
- (4) Land reclaimed in terms of subsection 2 forms part of state-owned land which may be alienated in terms of the applicable legislation. This provision shall not apply to land which has been lawfully alienated prior to this provision coming into effect.
- (5) An application for reclamation must record the purpose for which the land is to be reclaimed.
- (6) Unless authorised by the Minister, land reclaimed in terms of subsection (2) may not be utilised other than in accordance with the purpose stated in the original application and conditions of authorisation.
- (7) Before making a decision in terms of this section, the Minister must consult with any organ of state that may be affected by such decision.

Composition of coastal public property

- 7. (1)** Coastal public property consists of–
- (a) coastal waters;
 - (b) land submerged by coastal waters including –
 - (i) land flooded by coastal waters which subsequently becomes part of the bed of coastal waters; and
 - (ii) the substrata beneath such land;
 - (c) any natural island within coastal waters;
 - (d) the seashore, including –
 - (i) the seashore of a natural or reclaimed island; and
 - (ii) the seashore of reclaimed land;
 - (e) subject to subsection (2)(f), any admiralty reserve owned by the State;
 - (f) any land owned or controlled by the State declared under section 8 to be coastal public property; or
 - (g) any natural resource on or in any coastal public property of a category mentioned in paragraphs (a) to (f).

(2) Notwithstanding the provisions of subsection (1), coastal public property does not include—

- (a) any immovable structure, or part of an immovable structure, including harbour installations and infrastructure, whether located on land or the seabed, lawfully constructed by an organ of state;
- (b) any portion of the seashore below the high-water mark, which was lawfully alienated before the Sea-shore Act, 1935 (Act No. 21 of 1935) took effect, or which was lawfully alienated in terms of that Act, and which has not subsequently been re-incorporated into the seashore;
- (c) any part of an island that was lawfully alienated before this Act commenced;
- (d) any portion of a coastal cliff that-
 - (i) was lawfully alienated before this Act took effect; and
 - (ii) is not owned by the State;
- (e) any land which has been lawfully alienated and which is excluded from State owned land by virtue of section 7A(4) of this Act; or
- (f) any land or structure located within an admiralty reserve that is subject to a lawful lease from the State.”

3. *(Isigaba segunya soThethathethwano)* INgxelo yeKomiti eSisigxina kwezoLimo noCwangciso lwezokusiNgqongileyo ngoLawulo lwezokusiNgqongileyo kukaZwelonke: uMthetho oSayilwayo woLungiso loMgangatho woMoya [B 27B–2013] (NCOP), ebhalwe owe-11 Februwari 2014, ngolu hlobo lulandelayo:

IKomiti eSisigxina kwezoLimo noCwangciso lwezokusiNgqongileyo, emva kokuqwalasela umba woLawulo lwezokusiNgqongileyo kukaZwelonke: uMthetho oSayilwayo woLungiso loMgangatho woMoya [B 27B–2013] (NCOP), othunyelwe kwiKomiti ngokwemigaqo yoMthetho oSisigxina 220, inikezela kwigqiza laseNtshona Koloni kwi-NCOP igunya lokuxhasa uMthetho oSayilwayo unezi zilungiso zilandelayo:

Ulungiso lwecandelo 1(a) loMthetho 39 ka-2004

Ngokufakela endaweni yekwenkcazelo ka “**Commissioning**” ukusuka ku “commencement of alisted activity” ukuya ku “*the initiation of the testing and operation of a listed activity;*”;

Ulungiso lwecandelo 36 loMthetho 39 ka-2004

5. Section 36 of the principal Act is hereby amended-

(c) by the addition of the following subsections:

“(5) *Notwithstanding subsections (1) to (4), the Minister is the licencing authority and must, in consultation with the relevant provincial and municipal authority where the listed activity is located, perform the functions of the licencing authority if—*”

Ulungiso lwecandelo 41 loMthetho 39 ka- 2004

9. (3) “*A provisional atmospheric emission licence is valid for a period of one year from the date of the commissioning of the listed activity, or for a period as may be determined by a licencing authority, and may be extended for [an additional one year] a further period on good cause shown to the licencing authority*”.

4. (*Isigaba segunya soThethathethwano*) INgxelo yeKomiti eSisigxina kwezoLimo noCwangciso lwezokusiNgqongileyo ngoMthetho oSayilwayo woLungiso lweMithombo ePhila eManzini [B 30B–2013] (NCOP), ebhalwe owe-11 Februwari 2014, ngolu hlobo lulandelayo:

IKomiti eSisigxina kwezoLimo noCwangciso lwezokusiNgqongileyo, emva kokuqwalasela umba woMthetho oSayilwayo woLungiso lweMithombo ePhila eManzini [B 30B–2013] (NCOP), othunyelwe kwiKomiti ngokwemigaqo yoMthetho oSisigxina 220, inikezela kwigqiza laseNtshona Koloni kwi-NCOP igunya lokuxhasa uMthetho oSayilwayo unesi silungiso silandelayo:

Ulungiso lwecandelo 1 loMthetho 18 ka-1998

Kuphakanyiswa ukuba uluhlu lwesine, oluzabalazela ukuchaza “uluntu oluloba kancinane” njenge “...a group of persons who (iv) regard themselves as a small-scale fishing community;” be deleted in its entirety.

ISoloty 1 loMthetho oSayilwayo luphakamisa ukuba icandelo 1 loMthetho oyintloko lilungiswe ngokufakela lweenkcazelo ezithile. Ngokukodwa, iSoloty 1 lizabalazela ukuchaza “*small-scale fishing community*”, kwaye liqhuba lifake kuluhlu amaqela amane abantu abaza kwenza “*small-scale fishing community*”.

Kuvakaliswa ukuba amaqela/izintlu zokuqala zabantu zonke ziza kwabelana ngophawu olufanayo: olubizwa ngokuba lunxibelelwano okanye ukuzala **okunembali** kwindawo ethile okanye indlela yobomi. Kuphinda kuvakaliswe ukuba uluhlu lwesine luza kuvumela iqela labantu, OLUNGENALO olu nxibelelwano lwemveli okanye lwembali, ukuba, kwixa elizayo, ngenxa yomzekelo wemithombo eshokoxekayo ndaweni ithile, liziseke njengo “luntu oluloba kancinane” olutsha, kwaye lingathi ngoku ngokusemthethweni lenze oko, kuba ngoku liza kuba, ngempumelelo, “*lizithabatha njengoluntu oluloba kancinane*”.

Kuphinda kuvakaliswe ukuba oku kungakhokelela kwiziphumo ebe kungajongwanga kuzo, kuba oku kungadala ithuba lasemthethweni, kulo nangaphezu kwalo uguqulo lube yimo yasezidolophini, kungenelelo lwabantu kwiindawo ezibuthathaka, bonke bezabalazela imithombo enyiniweyo nephelayo yasemanzini. Ekugqibeleni, kuvakaliswa ukuba, oku kunganegalelo longquzulwano oluphakamileyo phakathi kuluntu olusele lusemngciphekweni kakade, nto leyo engadala imihlaba eyahlukeneyo netyebileyo yomzabalazo ophakathi koluntu.

Kuvakaliswa ngokunjalo ukuba ukususwa kwesibonelelo esidala olu luhlu lwesine lwabantu, akunakho ukuthibaza okanye ukutshabalalisa injongo ephambili kwanenjongo yemvelo yoMthetho oSayilwayo. Kuvakaliswa ukuba nokuba yintoni ebekujongwe kuyo ngokongezwa koluhlu lwesine lwabantu, ingathi, ngokutolikwa, ibe ilungele ukuqukwa kwizibonelelo ezithathu zangaphambili.