PROVINCE OF THE WESTERN CAPE

WESTERN CAPE LAND USE PLANNING BILL

(As amended by the Standing Committee on Agriculture and Environmental Planning)

(Minister of Local Government, Environmental Affairs and Development Planning)

[B 1B—2014]

PROVINSIE WES-KAAP

WES-KAAPSE WETSONTWERP OP GRONDGEBRUIKBEPLANNING

(Soos gewysig deur die Staande Komitee oor Landbou en Omgewingsake)

(Minister van Plaaslike Regering, Omgewingsake en Ontwikkelingsbeplanning)

[W 1B—2014]

IPHONDO LENTSHONA KOLONI

UMTHETHO OSAYILWAYO WOCWANGCISO LOSETYENZISO LOMHLABA WENTSHONA KOLONI

(Njengoko uLungisiwe yiKomiti eSisigxina kwezoLimo noCwangciso lwezokusiNgqongileyo)

(nguMphathiswa woRhulumente woMmandla: iMicimbi yezokusiNgqongileyo noCwangciso loPhuhliso)

[B 1B—2014]

ISBN 978-1-920359-37-9

No. of copies printed 150

BILL

To consolidate legislation in the Province pertaining to provincial planning, regional planning and development, urban and rural development, regulation, support and monitoring of municipal planning and regulation of public places and municipal roads arising from subdivisions; to make provision for provincial spatial development frameworks; to provide for minimum standards for, and the efficient coordination of, spatial development frameworks; to provide for minimum norms and standards for effective municipal development management; to regulate provincial development management; to regulate the effect of land development on agriculture; to provide for land use planning principles; to repeal certain old-order laws; and to provide for matters incidental thereto.

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

ARRANGEMENT OF SECTIONS AND SCHEDULE

CHAPTER I

INTERPRETATION

1. Definitions

CHAPTER II

FUNCTIONS OF MUNICIPALITIES AND PROVINCIAL GOVERNMENT

2. Functions of municipalities
3. Functions of Provincial Government

CHAPTER III

SPATIAL PLANNING

Part 1

Provincial spatial development framework

4. Provincial spatial development framework
5. Compilation, adoption, amendment or review of provincial spatial development framework
6. Initiation of amendment of provincial spatial development framework

Part 2

Provincial regional spatial development frameworks

7. Provincial regional spatial development frameworks
8. Compilation, adoption, amendment, review or withdrawal of provincial regional spatial development frameworks

9. Initiation of amendment or withdrawal of provincial regional spatial development frameworks

Part 3

Municipal spatial development frameworks

10. Municipal spatial development frameworks
11. Adoption or amendment of municipal spatial development frameworks
12. Intergovernmental steering committee
13. Procedure without intergovernmental steering committee
14. Submission of municipal spatial development frameworks
15. Consistency between municipal spatial development frameworks

Part 4

Transitional and general arrangements

16. Structure plans
17. Continuation of spatial development frameworks
18. Publication of spatial development frameworks
19. Compliance or consistency with, and deviation from, spatial development frameworks or structure plans
20. Records of spatial development frameworks
21. Integration of other plans, policy or frameworks

CHAPTER IV

MUNICIPAL DEVELOPMENT MANAGEMENT

Part 1

Zoning schemes

22. Zoning scheme for municipal area
23. Purpose of zoning schemes
24. Contents of zoning schemes
25. Compilation or amendment of zoning schemes
26. Intergovernmental steering committee
27. Procedure without intergovernmental steering committee
28. Submission of zoning schemes
29. Coming into operation of zoning schemes
30. Permitted utilisation of land
31. Records of zoning schemes
32. Continuation of zoning schemes

Part 2

Existing town planning and zoning schemes

33. Existing town planning and zoning schemes

Part 3

Zonings and other use rights

34. Use rights
35. Rezonings, departures or consent uses

Part 4

Subdivision

36. Subdivision of land

Part 5

Public places

37. Public places

Part 6

Consolidation of land units

38. Consolidation of land units

Part 7

Restrictive conditions

39. Removal, suspension or amendment of restrictive conditions

Part 8

Conditions

40. Conditions
41. Amendment of conditions

Part 9

Procedures and decision-making

42. Minimum information to be submitted
43. Publication of notices
44. Serving of notices
45. Provincial comment on land use applications
46. Maximum time for decision-making
47. Comments by organs of state
48. Fees for land use applications
49. Basis of assessment of land use applications
50. Notification of municipal decisions
51. Appeals against municipal decisions
52. Provincial comment on appeals

CHAPTER V

PROVINCIAL DEVELOPMENT MANAGEMENT

53. Provincial approval of land development
54. Decision of Head of Department
55. Basis of assessment of land development applications
56. Appeal to Provincial Minister
57. Lapsing of land development approvals

CHAPTER VI

LAND USE PLANNING PRINCIPLES

58. Application of land use planning principles
59. Land use planning principles

CHAPTER VII

EXEMPTIONS AND AUTHORISATIONS

60. Provincial exemptions and authorisations
61. Exemptions relating to subdivisions and consolidations

CHAPTER VIII

PLANNING ADVISORY COMMITTEE

62. Planning Advisory Committee
63. Composition of Committee
64. Term of office and conditions of service
65. Meetings of Committee

CHAPTER IX

GENERAL PROVISIONS

Part 1

Assessment of land use planning matters

66. Assessments and recommendations by registered planners

Part 2

Integrated procedures and decisions

67. Integrated procedures and decisions

Part 3

Enforcement, offences and penalties

68. Powers to inspect and enforce
69. Warrant
70. Notice to remedy contraventions
71. Contents of notice
72. Remedying contraventions
73. Review by Provincial Minister
74. Offences and penalties

Part 4

Delegations

75. Delegation of powers and assignment of duties

Part 5

Regulations and guidelines

76. Regulations and guidelines

Part 6

Repeal of laws, and savings and transitional provisions

77. Repeal of laws
78. Savings and transitional provisions

Part 7

Short title and commencement

79. Short title and commencement

SCHEDULE

LAWS REPEALED BY SECTION 77

CHAPTER I

INTERPRETATION

Definitions

1. In this Act, unless the context indicates otherwise—

"appeal authority" means an appeal authority of the municipality that considers an appeal against a municipal decision contemplated in Chapter IV;

"Committee" means the Planning Advisory Committee that may be established under section 62;

"competent authority" means a municipality, the Provincial Cabinet, the Premier, the Provincial Minister or the Head of Department, as the case may be, who considers an application, or performs a function, contemplated in this Act;

"competent person" means a person who may make a land use application, as determined by the municipality concerned;

"comply", in relation to a spatial development framework, a land use application or a land development application, has the meaning set out in section 19(1);

"consent use" means a land use permitted in terms of a particular zoning with the approval of a municipality;

"consistent", in relation to a spatial development framework, a land use application or a land development application, has the meaning set out in section 19(2);

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"cultural significance" means cultural significance as defined in section 2 of the National Heritage Resources Act, 1999 (Act 25 of 1999);

"Deeds Registries Act" means the Deeds Registries Act, 1937 (Act 47 of 1937);

"Department" means the provincial department responsible for land use planning;

"departure" means an altered development parameter granted on a permanent basis or a right to utilise land for a purpose granted on a temporary basis;

"designated employee" means an employee of the Department designated in terms of section 68(1) to conduct an inspection and enforcement action;

"development management" means the management of land development through the measures provided for in Chapters IV and V, and in Chapters VI to IX in so far as they apply to Chapters IV and V;

"development parameter" means a provision or restriction in a zoning scheme that sets out the permissible extent of the land use in terms of a zoning;

"diagram" means a diagram as defined in section 1 of the Land Survey Act, 1997 (Act 8 of 1997);

"district municipality" means a district municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"engineering service" means a system for the provision of water, sewerage, electricity, municipal roads, storm-water drainage and gas, and for solid waste collection and removal, required for the purpose of land development;

"environment" means environment as defined in section 1 of the National Environmental Management Act, 1998 (Act 107 of 1998);

"general plan" means a general plan as defined in section 1 of the Land Survey Act, 1997;

"Head of Department" means the head of the provincial department responsible for land use planning;

"heritage resource" means a place of cultural significance;

"internal engineering service" means an engineering service owned and operated by a municipality or a service provider within the boundaries of a land area referred to in a land use application and that is necessary for the utilisation and development of the land;

"land" means any erf or farm portion, and includes any improvement or building on the land and any real right in land;

"land development" means the erection of buildings or structures on land, or the change in utilisation of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or utilisation permitted in terms of an applicable zoning scheme;

"land development application" means an application to the Head of Department contemplated in Chapter V;

"land unit" means a portion of land registered or capable of being registered in a deeds registry, and includes a servitude right or lease;

"land use" means the purpose for which land is or may be utilised lawfully in terms of a zoning scheme or in terms of any other approval, permit or consent issued by a competent authority, and includes any conditions related to the land use;

"land use application" means an application to a municipality contemplated in Chapter IV;

"land use planning" means spatial planning and development management;

"Less Formal Township Establishment Act" means the Less Formal Township Establishment Act, 1991 (Act 113 of 1991);

"local municipality" means a local municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998;

"metropolitan municipality" means a metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998;

"municipal area" means the area of jurisdiction of a municipality determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);

"municipal manager" means a municipal manager as defined in section 1 of the Municipal Systems Act;

"municipal spatial development framework" means a municipal spatial development framework contemplated in section 10;

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"municipality" means a municipality as defined in section 2 of the Municipal Systems Act and—

(a) includes a municipal department, the municipal council, the municipal manager or a decision-making authority of the municipality, where the context so requires;

(b) in relation to a zoning scheme or a land use application, refers to the local municipality or the metropolitan municipality of the municipal area in which the land concerned is situated; and

(c) in relation to any other municipal function or power, refers to the metropolitan municipality, the local municipality or the district municipality, as the case may be, which has the function or power in accordance with the division of functions and powers in terms of the Local Government: Municipal Structures Act, 1998;

"Ordinance" means the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985);

"organ of state" means an organ of state as defined in section 239 of the Constitution;

"owner" means the person registered in a deeds registry as the owner of land or who is the beneficial owner in law;

"person" means any natural or juristic person, including an organ of state;

"prescribe" means prescribe by regulation under this Act;

"Province" means the Province of the Western Cape;

"provincial" means of or by the Provincial Government;

"Provincial Government" means the provincial government of the Province;

"Provincial Minister" means the Provincial Minister responsible for land use planning;

"provincial regional spatial development framework" means a provincial regional spatial development framework contemplated in section 7;

"provincial spatial development framework" means a provincial spatial development framework contemplated in section 4;

"public place" means any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram that is for use by the general public and is owned by, or vests in the ownership of, a municipality, and includes a public open space and a servitude for any similar purpose in favour of the general public;

"region" means a geographical area consisting of the municipal areas, or parts of the municipal areas, of—

(a) more than one local municipality; or

(b) a metropolitan municipality and one or more adjoining local municipalities;

"register" means a register of a zoning scheme contemplated in section 24*(c)*;

"registered planner" means a professional or technical planner registered in terms of the Planning Profession Act, 2002 (Act 36 of 2002), unless the South African Council for Planners has reserved the work to be performed by a registered planner in terms of this Act for a particular category of registered persons in terms of section 16(2) of the Planning Profession Act, 2002, in which case a registered planner means that category of registered persons for whom the work has been reserved;

"Registrar of Deeds" means the Registrar of Deeds of the Province contemplated in the Deeds Registries Act;

"restrictive condition" means any condition registered against the title deed of land restricting the utilisation, development or subdivision of the land concerned, excluding servitudes creating real or personal rights;

"rezoning" means an amendment contemplated in section 35 of a zoning scheme in order to effect a change of zoning in relation to a particular portion of land to another zoning provided for in the zoning scheme;

"Rural Areas Act" means the Rural Areas Act (House of Representatives), 1987 (Act 9 of 1987);

"servitude" means a servitude registered against a title deed of land;

"spatial development framework" refers to a provincial spatial development framework, a provincial regional spatial development framework or a municipal spatial development framework;

"spatial planning" means the planning for land use through the measures provided for in Chapter III, and Chapters VI to IX in so far as they apply to Chapter III, and includes the spatial manifestation thereof;

"structure plan" means a structure plan that is in force in terms of section 16(1)*(b)* read with section 16(3) and (4);

"subdivision", in relation to land, means the division of a land unit into more land units, and includes any physical activity on the land to prepare the land for subdivision, but does not include the preparation of a subdivision plan;

"subdivision plan" means the plan contemplated in section 36(3)*(b)*;

"Surveyor-General" means the Surveyor-General of the Surveyor-General's Office of the Province, as contemplated in the Land Survey Act, 1997;

"sustainable development" means sustainable development as defined in section 1 of the National Environmental Management Act, 1998;

"this Act" includes the regulations made under this Act;

"title deed" means any deed registered in a deeds registry recording the ownership of land or a real right in land;

"township" means an area of land divided into erven, and may include public places indicated as such on a general plan;

"use right", in relation to land, means the right to utilise that land in accordance with its zoning, a departure, consent use, condition of approval or any other approval granted in respect of the rights to utilise the land;

"utilisation", in relation to land, means the use of land for a purpose or the improvement of land, whether lawful or not;

"zone", when used as a verb in relation to land, means to designate the land for a particular zoning;

"zoning" means a land use category regulating the utilisation and development of land and setting out—

(a) the purposes for which land may be utilised; and

(b) the development parameters applicable to that land use category,

as determined by the applicable zoning scheme;

"zoning map" means a map of a zoning scheme contemplated in section 24*(d)*;

"zoning scheme" means the instruments referred to in sections 22 to 24, or section 33, to zone, regulate and control land;

"1984 Regulations" means the regulations made under section 66(1) of the Black Communities Development Act, 1984 (Act 4 of 1984), published under Government Notice R.1897/1986 in *Government Gazette* 10431 of 12 September 1986 and Provincial Notice 733/1989 in *Provincial Gazette* 4606 of 22 September 1989, in respect of all town planning schemes that are in existence immediately before the commencement of this Act.

CHAPTER II

FUNCTIONS OF MUNICIPALITIES AND PROVINCIAL GOVERNMENT

Functions of municipalities

2. (1) Municipalities are responsible for land use planning in their respective municipal areas and within their jurisdiction.

(2) A municipality must regulate at least the following:

(a) the development, adoption, amendment and review of a zoning scheme for the municipal area;

(b) the procedures in terms of which the municipality receives, considers and decides on land use applications;

(c) the procedures in terms of which the municipality facilitates public participation in its consideration of land use applications;
(d) the criteria for deciding on land use applications;
(e) the imposition of conditions of approval for land use applications;
(f) the procedures applicable after a land use application has been approved; and
(g) the enforcement by the municipality of its by-laws and decisions with regard to land use planning.

(3) A municipality must perform the functions referred to in this section in accordance with this Act.

Functions of Provincial Government

3. (1) The Provincial Cabinet must adopt and review, and may amend, a provincial spatial development framework in accordance with sections 4 and 5.

(2) The Provincial Minister may adopt, amend or review a provincial regional spatial development framework in the circumstances contemplated in section 7.

(3) The Head of Department must decide on land development applications and the Provincial Minister must decide on appeals in respect thereof.

(4) The Provincial Minister must monitor compliance with the principles referred to in Chapter VI.

(5) The Provincial Minister must monitor provincial land use planning and the impact of one or more of the following matters on provincial land use planning:
(a) disaster management;
(b) housing;
(c) regional planning and development;
(d) urban and rural development;
(e) provincial tourism;
(f) protection of biodiversity, heritage and agricultural resources;
(g) main public infrastructure facilities and services;
(h) water and energy resources;
(i) adaptation to climate change and the mitigation of the impact of climate change;
(j) renewable energy production and energy conservation; or
(k) economic development.

(6) The Provincial Minister may monitor—
(a) the financial and human-resource capacity of municipalities to perform their land use planning functions;
(b) the effectiveness of the performance by municipalities of their land use planning functions;
(c) the impact of municipal land use planning on—
(i) the matters referred to in subsection (5);
(ii) the implementation and alignment of the plans and strategies of the Provincial Government and other organs of state;
(iii) existing municipal service infrastructure and municipal road networks;
(d) the existing and future availability of—
(i) engineering services to implement municipal land use planning;
(ii) community and public facilities to support municipal land use planning.

(7) The Provincial Minister must support municipalities to perform their land use planning functions through appropriate measures, including one or more of the following:
(a) issuing guidelines on the implementation of this Act and other relevant legislation;
(b) issuing standardised models and drafts of municipal policy, by-laws, decisions and forms;
(c) providing information and guidance to municipalities for their land use planning decision-making;
(d) providing technical assistance, training and support to municipalities;
(e) seconding provincial employees to a municipality in consultation with affected municipalities; or
(f) providing any other support measure.

(8) The Provincial Minister may—
(a) make regulations; or
(b) issue guidelines, minimum requirements, principles and norms and standards,

consistent with this Act to facilitate the implementation of subsections (4) to (6) and to see to the effective performance by municipalities of their land use planning functions.

CHAPTER III

SPATIAL PLANNING

Part 1:

Provincial spatial development framework

Provincial spatial development framework

4. (1) The Premier must compile a provincial spatial development framework in terms of section 5 for adoption by the Provincial Cabinet.

(2) The purpose of the provincial spatial development framework is to—

(a) make provision for the coordination, integration and alignment of provincial development policy in respect of the provincial functional areas listed in Schedules 4 and 5 to the Constitution and the land use implications thereof;

(b) indicate desirable land use and promote predictability in the utilisation of land; and

(c) facilitate coordination, integration and alignment of national, provincial and municipal land use planning policy.

(3) The provincial spatial development framework must contain at least the following:

(a) a spatial vision for the integrated development of the Province;

(b) an assessment of—

(i) the existing levels of development in the Province; and

(ii) the challenges of provincial land use planning in relation to other provincial functional areas listed in Schedules 4 and 5 to the Constitution;

(c) provincial priorities, objectives and strategies, dealing in particular with—

(i) compliance with land use planning principles;

(ii) biodiversity, ecological, provincial tourism, heritage and agricultural resources, socio-economic development and efficient use of resources; and

(iii) adaptation to climate change, mitigation of the impact of climate change, renewable energy production and energy conservation; and

(d) a description of the process followed in the compilation of the provincial spatial development framework.

Compilation, adoption, amendment or review of provincial spatial development framework

5. (1) The Premier must appoint an *ad hoc* intergovernmental steering committee to compile or review a provincial spatial development framework for approval by the Provincial Cabinet and may appoint an *ad hoc* intergovernmental steering committee to compile an amendment of a provincial spatial development framework that does not arise from a review thereof.

(2) The committee must consist of at least—

(a) persons with knowledge of, and experience in, land use planning;

(b) persons with knowledge of, and experience in, environmental management;

(c) persons who are registered planners; and

(d) representatives, as prescribed, of local, metropolitan and district municipalities, the Provincial Government and relevant organs of state.

(3) The Provincial Minister must prescribe procedures for—

(a) the nomination, appointment and terms of appointment of members of the committee and the functioning of the committee;

(b) the compilation, adoption, amendment and review of a provincial spatial development framework; and

(c) intergovernmental and public consultation in respect of the adoption, amendment and review of a provincial spatial development framework.

(4) The Provincial Minister may authorise a deviation or grant an exemption from the procedures referred to in subsection (3) to enable the Provincial Cabinet to adopt a draft

provincial spatial development framework in existence immediately before the commencement of this Act.

(5) The provincial spatial development framework must be reviewed at least every 10 years.

Initiation of amendment of provincial spatial development framework

6. The Head of Department may, on own initiative or on request, initiate the amendment of the provincial spatial development framework for approval by the Provincial Cabinet in accordance with the procedures contemplated in section 5(3)*(b)* and *(c)*.

Part 2:

Provincial regional spatial development frameworks

Provincial regional spatial development frameworks

7. (1) The Provincial Minister may adopt a provincial regional spatial development framework for a region after consultation with the relevant municipalities and any other relevant authority in the region.

(2) The purpose of a provincial regional spatial development framework is to, in a specific region—

(a) provide a spatial vision that strives to balance economic, social and environmental considerations;

(b) promote rational and predictable land use planning;

(c) facilitate the coordination, integration and alignment of provincial and municipal land use planning policy; and

(d) address specific economic, social, natural or unique features.

(3) A provincial regional spatial development framework must, in relation to the region that it applies to, contain at least the matters referred to in section 4(3)*(a)* to *(d)*, read with the necessary changes.

(4) A provincial regional spatial development framework must be consistent with the provincial spatial development framework.

Compilation, adoption, amendment, review or withdrawal of provincial regional spatial development frameworks

8. (1) Section 5(1) to (3), read with the necessary changes, applies to the compilation, adoption, amendment, review or withdrawal of a provincial regional spatial development framework.

(2) For the purposes of subsection (1), a reference to the Premier or the Provincial Cabinet in section 5(1) must be construed as a reference to the Provincial Minister.

(3) A provincial regional spatial development framework must be reviewed at least every 10 years.

Initiation of amendment or withdrawal of provincial regional spatial development frameworks

9. The Head of Department may, on own initiative or on request, initiate the amendment or withdrawal of a provincial regional spatial development framework for approval by the Provincial Minister in accordance with the procedures contemplated in section 8(1).

Part 3:

Municipal spatial development frameworks

Municipal spatial development frameworks

10. (1) A municipality must comply with section 11 when it adopts or amends its municipal spatial development framework in terms of the Municipal Systems Act.

(2) A municipal spatial development framework must at least—

(a) comply with other applicable legislation;

(*b*) promote predictability in the utilisation of land;
(*c*) address development priorities;
(*d*) where relevant, provide for specific spatial focus areas, including towns, other nodes, sensitive areas, or areas experiencing specific development pressure; and
(*e*) consist of a report and maps covering the whole municipal area, reflecting municipal planning and the following structuring elements:
(i) transportation routes;
(ii) open space systems and ecological corridors;
(iii) proposed major projects of organs of state with substantial spatial implications;
(iv) outer limits to lateral expansion; and
(v) densification of urban areas.

(3) A municipal spatial development framework must be aligned with the provincial development plans and strategies and must complement those development plans and strategies by including a map identifying at least the following in the municipal area:
(*a*) the provincial road and traffic network;
(*b*) the provincial public transport network;
(*c*) existing and planned provincial health and education facilities;
(*d*) heritage, agricultural and tourism resources of provincial importance; and
(*e*) where relevant, areas of recognised provincial ecological value, including—
(i) nature conservation areas;
(ii) areas of high biodiversity value;
(iii) areas requiring dedicated soil conservation;
(iv) areas requiring a dedicated pollution-control regime; and
(v) areas requiring dedicated strategies to adapt to climate change and mitigate the impact of climate change.

Adoption or amendment of municipal spatial development frameworks

11. The process adopted by a municipality in terms of section 28 of the Municipal Systems Act relating to the adoption or amendment of its municipal spatial development framework must make provision for—
(*a*) the establishment of an intergovernmental steering committee to compile a draft municipal spatial development framework or a draft amendment of a municipal spatial development framework; or
(*b*) a procedure that complies with section 13.

Intergovernmental steering committee

12. (1) If a municipality establishes an intergovernmental steering committee referred to in section 11*(a)*, the committee must consist of at least—
(*a*) the municipal manager, or a municipal employee designated by the municipal manager; and
(*b*) representatives of—
(i) the municipality, nominated by the municipal manager;
(ii) the Department, nominated by the Head of Department; and
(iii) the provincial department responsible for environmental affairs, nominated by the head of that department.

(2) The members of the intergovernmental steering committee must be persons appointed by virtue of their qualifications and experience in, and knowledge of, land use planning or environmental management.

(3) The intergovernmental steering committee—
(*a*) is chaired by the municipal manager or the municipal employee designated by the municipal manager in terms of subsection(1)*(a)*, as the case may be;
(*b*) determines its own procedures, which must make provision for at least a quorum and decision-making; and
(*c*) may appoint subcommittees and assign tasks to such subcommittees.

(4) The members contemplated in subsection (1)*(b)*(ii) and (iii) must submit written provincial comments to the municipality on a draft municipal spatial development framework or draft amendment of a municipal spatial development framework during the compilation process thereof.

Procedure without intergovernmental steering committee

13. (1) If an intergovernmental steering committee contemplated in section 12 is not established, the municipality—

(a) must submit a draft municipal spatial development framework or draft amendment of a municipal spatial development framework to the Provincial Minister for written comment; and

(b) may not adopt its municipal spatial development framework or approve an amendment thereof until—

(i) the municipality has received and considered the comments referred to in subsection (2); or

(ii) the end of the period referred to in subsection (2) and if no comments were received from the Provincial Minister during that period.

(2) The Provincial Minister must, within 60 days of receiving a draft municipal spatial development framework or draft amendment of a municipal spatial development framework in terms of subsection (1)*(a)*, submit written comments thereon to the municipality.

(3) The period referred to in subsection (2) may be extended with the concurrence of the municipality.

Submission of municipal spatial development frameworks

14. A municipal manager must, within the period contemplated in section 32(1) of the Municipal Systems Act, submit the following to the Provincial Minister:

(a) a written notice of the decision to adopt or amend a municipal spatial development framework, together with the reasons for the decision;

(b) the adopted or amended municipal spatial development framework; and

(c) a report setting out the response of the municipality to the comments submitted in terms of section 12(4) or 13(2).

Consistency between municipal spatial development frameworks

15. (1) Municipal spatial development frameworks of local municipalities and the relevant district municipality must be consistent with one another.

(2) The procedures adopted by a district municipality in terms of section 27 of the Municipal Systems Act must include a process for resolution of disputes regarding consistency between municipal spatial development frameworks adopted by the local municipalities in its district municipal area and its municipal spatial development framework, respectively.

(3) The process for resolution of disputes must contain a procedure for the Provincial Minister to be notified of a dispute.

Part 4:

Transitional and general arrangements

Structure plans

16. (1) Despite the repeal of the Ordinance by section 77—

(a) the structure plan approved in terms of section 4(6) of the Ordinance and published under Provincial Notice 236/2009 in *Provincial Gazette* 6641 of 10 July 2009, or any amendment or replacement thereof before the commencement of this Act, remains in force and is regarded as the provincial spatial development framework adopted in terms of section 4(1); and

(b) subject to subsection (2), any other structure plan approved in terms of section 4(6) or 4(10) of the Ordinance and in existence immediately before the commencement of this Act remains in force.

(2) Despite subsection (1)*(b)*, the General Structure Plan referred to in Circular LDC 9 of 8 December 1988, approved in terms of section 4(6) of the Ordinance and all amendments thereof are withdrawn at the commencement of this Act.

(3) A structure plan referred to in subsection (1)*(b)* lapses two years after the date of commencement of this Act.

(4) A municipality may, before a structure plan lapses, by notice in the *Provincial Gazette* withdraw the application thereof in its municipal area.

Continuation of spatial development frameworks

17. If land situated in the municipal area of a municipality is incorporated into the municipal area of another municipality, a municipal spatial development framework in respect of that land remains applicable to the municipal area to which it applied before the incorporation until amended by the receiving municipality in accordance with this Chapter.

Publication of spatial development frameworks

18. (1) A municipality must, after the adoption or amendment of its municipal spatial development framework, publish a notice of its decision in the *Provincial Gazette*.

(2) If a municipal spatial development framework is amended as a result of a decision of an *ad hoc* committee contemplated in section 33 of the Municipal Systems Act, a notice of the amendment must be published in accordance with subsection (1).

(3) The Provincial Minister must, within 21 days of the adoption or amendment of a provincial spatial development framework or a provincial regional spatial development framework, publish a notice of the decision in the *Provincial Gazette*.

(4) A provincial spatial development framework, a provincial regional spatial development framework or an amendment of either, comes into operation on the date of publication of the notice contemplated in subsection (3).

Compliance or consistency with, and deviation from, spatial development frameworks or structure plans

19. (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.

(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 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.

(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.

Records of spatial development frameworks

20. (1) The relevant competent authority must keep its spatial development framework updated and make the updated spatial development framework accessible to the public.

(2) An updated spatial development framework must show a record of—

(a) in the case of a provincial spatial development framework or provincial regional spatial development framework, approved land development applications that deviate as contemplated in section 19(3) from that spatial development framework;

(b) in the case of a municipal spatial development framework, approved land use applications that deviate as contemplated in section 19(3) from the municipal spatial development framework; and

(c) amendments of the spatial development framework.

Integration of other plans, policy or frameworks

21. When the Provincial Government or a municipality is required to approve in terms of other legislation a plan, policy or framework affecting land use planning, the Provincial Minister or municipality may integrate that plan, policy or framework or an amendment thereof, with a relevant spatial development framework if—

(a) all applicable legislation has been complied with; and

(b) the spatial development framework specifies the relevant legislation in terms of which it is approved and any authority that approved it.

CHAPTER IV

MUNICIPAL DEVELOPMENT MANAGEMENT

Part 1:

Zoning schemes

Zoning scheme for municipal area

22. (1) Every local municipality and metropolitan municipality must adopt a single zoning scheme for its whole municipal area, providing for at least the matters referred to in section 24.

(2) When a municipality adopts its zoning scheme, the municipality must comply with this Act and the further minimum requirements as may be prescribed for zoning schemes.

(3) A municipality must review its zoning scheme at least every 10 years.

(4) Amendments arising from a review of a zoning scheme must be approved in accordance with section 25.

Purpose of zoning schemes

23. The purpose of a zoning scheme is to at least—

(a) make provision for orderly development and the welfare of the community; and

(b) determine use rights and development parameters,

with due consideration of the principles referred to in Chapter VI.

Contents of zoning schemes

24. A zoning scheme must make provision for at least—

(a) the zoning of land;

(b) the coming into operation of new zonings if new zonings are provided for in the zoning scheme;

(c) the keeping of a register to record departures, non-conforming land uses contemplated in section 29(1)*(c)*(i) and consent uses; and

(d) the approval of a zoning map to record the following:

  (i) the zoning of land units and references to records in the register; and

  (ii) rezonings and amendments to references to the register, where a land use planning application is approved by the municipality or where a use right has lapsed.

Compilation or amendment of zoning schemes

25. A municipality must compile or amend its zoning scheme by—

(a) establishing an intergovernmental steering committee to compile a draft zoning scheme or a draft amendment of a zoning scheme; or

(b) following the procedure set out in section 27.

Intergovernmental steering committee

26. (1) If a municipality establishes an intergovernmental steering committee referred to in section 25*(a)*, the committee must consist of at least—

(a) the municipal manager or a municipal employee designated by the municipal manager; and

(b) representatives of—

  (i) the municipality, nominated by the municipal manager;

  (ii) the relevant district municipality, nominated by its municipal manager; and

  (iii) the Department, nominated by the Head of Department.

(2) The members of the intergovernmental steering committee must be persons appointed by virtue of their qualifications and experience in, and knowledge of, land use planning.

(3) The intergovernmental steering committee—

(a) is chaired by the municipal manager or the municipal employee designated by the municipal manager in terms of subsection (1)*(a)*, as the case may be;

(b) determines its own procedures, which must provide for at least a quorum and decision-making; and

(c) may appoint subcommittees and assign tasks to such subcommittees.

(4) The members contemplated in subsection (1)*(b)*(iii) must submit written provincial comments to the municipality on a draft zoning scheme or draft amendment of a zoning scheme during the compilation process thereof.

Procedure without intergovernmental steering committee

27. (1) If an intergovernmental steering committee contemplated in section 26 is not established, the municipality—

(a) must submit a draft zoning scheme or draft amendment of a zoning scheme, excluding the register and zoning map, to the Provincial Minister for written comment; and

(b) may not adopt its zoning scheme or approve an amendment thereof until—

(i) the municipality has received and considered the comments referred to in subsection (2); or

(ii) the end of the period referred to in subsection (2) and if no comments were received from the Provincial Minister during that period.

(2) The Provincial Minister must, within 60 days of receiving a draft zoning scheme or draft amendment of a zoning scheme in terms of subsection (1)*(a)*, submit written comments thereon to the municipality.

(3) The period referred to in subsection (2) may be extended with the concurrence of the municipality.

Submission of zoning schemes

28. A municipality must, within 30 days of approval of a zoning scheme or amendment thereof, submit the following to the Premier:

(a) a written notice of the decision to adopt or amend the zoning scheme;

(b) the adopted or amended zoning scheme, excluding the register and zoning map; and

(c) a report setting out the response of the municipality to the comments submitted in terms of section 26(4) or 27(2).

Coming into operation of zoning schemes

29. (1) A municipality must make provision for appropriate measures to regulate—

(a) the coming into operation of a zoning scheme approved in accordance with this Act and of subsequent reviews and amendments thereof;

(b) the transition, in accordance with section 34, from—

(i) a zoning scheme in force in terms of section 33 to a zoning scheme adopted in accordance with this Act; and

(ii) a zoning scheme adopted in accordance with this Act to subsequent reviews and amendments thereof; and

(c) non-conforming land use, by providing that—

(i) land that is being utilised lawfully in terms of an existing zoning scheme for a purpose that does not comply with a proposed zoning scheme may continue to be utilised for that purpose when the new zoning scheme comes into operation; and

(ii) a land use application must be made for the alteration or extension of buildings or structures on land referred to in subparagraph (i).

(2) A municipality must publish its decision to approve a zoning scheme map in the *Provincial Gazette*.

Permitted utilisation of land

30. No person may utilise or develop land unless the utilisation or land development is permitted in terms of a zoning scheme or an approval consistent with this Act and applicable by-laws.

Records of zoning schemes

31. Each municipality must keep its zoning scheme updated and make the updated zoning scheme accessible to the public.

Continuation of zoning schemes

32. If land situated in the municipal area of a municipality is incorporated into the municipal area of another municipality, a zoning scheme in respect of that land remains in force in the municipal area to which it applied before the incorporation until amended by the receiving municipality.

Part 2:

Existing town planning and zoning schemes

Existing town planning and zoning schemes

33. (1) Despite the repeal of the Ordinance by section 77—

(a) a zoning scheme, including a zoning map, register and scheme regulations in existence in terms of section 7, 8, 8A, 9, 10 or 12 of the Ordinance immediately before the commencement of this Act, remains in force, and sections 2, 7 to 14, 39 to 41, 46 and 47 of the Ordinance apply to that zoning scheme, as if not repealed, unless those provisions are inconsistent with this Act or an applicable by-law; and

(b) a use right and a lawful zoning in terms of that zoning scheme remains in force until amended in terms of an applicable by-law.

(2) Despite the repeal of Provincial Notice 733/1989 by section 77—

(a) a town planning scheme in existence in terms of that notice immediately before the commencement of this Act remains in force and the relevant provisions of Provincial Notice 733/1989 and Government Notice R.1897/1986 apply to that town planning scheme, as if not repealed, unless those provisions are inconsistent with this Act or an applicable by-law; and

(b) a use right and a lawful zoning in terms of that town planning scheme remains in force until amended in terms of an applicable by-law.

(3) A land use application submitted after the commencement of this Act and that pertains to a use right that remains in force in terms of subsection (1)*(b)* or (2)*(b)* must be considered and processed by a municipality in accordance with this Act and in terms of applicable by-laws.

(4) Upon the coming into operation of a zoning scheme contemplated in section 22, a zoning scheme or town planning scheme referred to in subsection (1) or (2) lapses.

Part 3:

Zonings and other use rights

Use rights

34. (1) A municipality must, when adopting a zoning scheme in accordance with this Act or on receipt of an application referred to in subsection (5), determine a zoning or a deemed zoning—

(a) for land zoned or deemed to be zoned in terms of a zoning scheme or town planning scheme in force in terms of section 33 for—

(i) state or other authority purposes;

(ii) a purpose or reservation without development parameters; or

(iii) a purpose for which the land is not being utilised; and

(b) for land referred to in section 8 of the Ordinance and which is not deemed to be zoned by virtue of a determination under section 14(1) of the Ordinance.

(2) A municipality must, upon the commencement of this Act, incorporate land that immediately before the commencement of this Act was not regulated by a zoning scheme or town planning scheme, including land that was regulated by the Rural Areas Act, in an existing zoning scheme contemplated in section 33(1) or its zoning scheme adopted in accordance with this Act.

(3) Until a municipality incorporates land referred to in subsection (2) in accordance with that subsection, the scheme regulations in terms of section 8 or 9 of the Ordinance that remain in force in terms of section 33 of this Act, apply to that land and the municipality must determine a zoning or a deemed zoning for the land in accordance with subsection (4).

(4) When determining a zoning or a deemed zoning in terms of subsection (1), (2) or (3), a municipality must have regard to at least—

(a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this Act if it can be determined;
(b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
(c) any departure or consent use that may be required in conjunction with that zoning;
(d) in the case of land that was vacant immediately before the commencement of this Act, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
(e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this Act, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.

(5) A competent person who requires a zoning for land contemplated in subsection (1) or (2) must apply to the municipality for the determination of a zoning.

(6) Zoning may be made applicable to a land unit or part thereof and zoning need not follow cadastral boundaries.

(7) A use right vests in land and not in a person.

Rezonings, departures or consent uses

35. (1) A competent person who requires a rezoning, departure or consent use in respect of land must apply to the municipality.

(2) When a municipality on its own initiative rezones land of which it is not the owner, the municipality must comply with sections 43 and 44 and must have regard to at least the matters referred to in section 49*(a)* to *(e)*.

(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.

Part 4:
Subdivision

Subdivision of land

36. (1) No person may subdivide land without the approval of the municipality unless the subdivision is exempted in accordance with section 61.

(2) Subject to section 61, a competent person who requires a subdivision of land must apply to the municipality.

(3) A municipality must require at least the following in respect of an application for subdivision:

(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; and
(b) the submission of a subdivision plan showing the following:
  (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.

(4) Regarding an approved subdivision, a municipality must make provision for at least the following:

(a) the vesting of ownership or registration of public places as contemplated in section 37, and when the vesting occurs or registration must be effected;
(b) the confirmation of zonings in terms of the approved subdivision plan, and when the confirmation occurs;
(c) when a building or structure may be constructed on a land unit forming part of the subdivision; and
(d) the amendment of the zoning scheme and general plan if the subdivision lapses in terms of a condition contemplated in subsection (9).

(5) A municipality must impose appropriate conditions relating to engineering services contemplated in section 40(2)*(a)* for the approval of a subdivision.

(6) When a municipality approves a rezoning for a purpose that includes subdivision, 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.

(7) If a municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of at least—
(a) the decision to approve the subdivision;
(b) the conditions of approval contemplated in subsection (5) and section 40; and
(c) the approved subdivision plan.

(8) If a municipality approves a subdivision, the applicant must provide for or comply with at least the following requirements:
(a) the approval by the Surveyor-General of the general plan or diagram contemplated in subsection (7);
(b) completion of the installation of engineering services in accordance with the conditions contemplated in subsection (5) or other applicable legislation;
(c) proof to the satisfaction of the municipality that all relevant conditions contemplated in section 40 for the approved subdivision in respect of the area shown on the general plan or diagram have been met; and
(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.

(9) A municipality must consider imposing, in accordance with minimum standards as may be prescribed, a validity period for an approval of a subdivision to make provision for—
(a) the lapsing of an approval of a subdivision if an applicant fails to comply with the requirements referred to in subsection (8) within the validity period; and
(b) the confirmation of the subdivision, including the confirmation of the zonings and the vesting of ownership of the public places in the municipality, upon compliance with the requirements referred to in subsection (8) within the validity period.

(10) A competent person must apply to the municipality if he or she requires the amendment or cancellation of an approved subdivision plan, including conditions of approval, the general plan or diagram, in relation to erven shown on the general plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act.

(11) If the amendment or cancellation of a subdivision plan is approved, the applicant must submit the amended or cancelled subdivision plan to the Surveyor-General to amend or cancel the general plan or diagram accordingly.

(12) Where the amendment or cancellation of a general plan requires the closure of a public place it must be closed in accordance with section 37(3) and (5) to (7).

(13) The applicant is liable for any expenditure resulting from the amendment or cancellation of a subdivision plan and incurred by the municipality or any other organ of state in respect of the retransferral or reversion of land to the owner of the remainder of the land.

Part 5:

Public places

Public places

37. (1) Where land is earmarked for a public place as shown on an approved subdivision plan, the municipality must make provision for at least—

(a) the vesting in the municipality of the ownership of that land; or

(b) the registration of that land in the name of the municipality.

(2) A municipality is not liable for compensation for the land referred to in subsection (1) if the provision of the public place is based on the normal need therefor arising from the subdivision.

(3) A municipality must close a public place permanently and rezone the land appropriately if—

(a) the land is required to be utilised permanently for a purpose that is different from the purpose of the confirmed zonings of the subdivision from which the public place arose; or

(b) in the case of a street, its position is required to be altered permanently from the position approved as part of the subdivision from which the street arose.

(4) An applicant in a land use application who requires the closure of a public place, whether permanently or temporarily, must apply to the municipality.

(5) When a municipality considers the permanent closure of a public place, the municipality must have regard to at least the matters referred to in section 49*(a)* to *(e)*.

(6) When a municipality closes a public place permanently, the municipality must at least—

(a) make provision for the payment of compensation to a person who has suffered loss or damage as a result of the permanent closure of the public place; and

(b) regulate the ownership of the land following the permanent closure of the public place.

(7) The municipality must inform the Surveyor-General of the permanent closure of a public place and the Surveyor-General must amend the general plan or diagram accordingly.

Part 6:

Consolidation of land units

Consolidation of land units

38. (1) A person may not construct a building or structure that straddles the erf boundaries of two or more contiguous erven without the approval of the municipality.

(2) Subject to section 61, a competent person who requires the consolidation of land units must apply to the municipality.

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

Part 7:

Restrictive conditions

Removal, suspension or amendment of restrictive conditions

39. (1) A competent person must apply to the municipality if he or she requires the removal, suspension or amendment of a restrictive condition.

(2) Notice of the application must be served in accordance with section 44 on at least the following persons:

(a) any person mentioned in the title deed for whose benefit the restrictive condition applies; and

(b) any other person whose rights or legitimate expectations will be affected by the approval of the application.

(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)*.

(4) Any reference to the approval by the Administrator or Townships Board in a restrictive condition, excluding a restrictive condition in terms of which the Provincial Government acquires private law rights, is regarded as a reference to the approval by the relevant municipality.

(5) When a municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard to at least the following:

(a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
(c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;
(d) the social benefit of the restrictive condition remaining in place in its existing form;
(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and
(f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

(6) A municipality must publish its decision to remove, suspend or amend a restrictive condition in at least the *Provincial Gazette* and notify the Registrar of Deeds accordingly.

Part 8:

Conditions

Conditions

40. (1) When a municipality approves a land use application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.

(2) Conditions imposed in accordance with subsection (1) may include, but are not limited to, conditions relating to—

(a) the provision of engineering services and infrastructure;
(b) the cession of land or the payment of money;
(c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
(d) settlement restructuring;
(e) agricultural or heritage resource conservation;
(f) biodiversity conservation and management;
(g) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
(h) energy efficiency;
(i) requirements aimed at addressing climate change;
(j) the establishment of an owners' association in respect of a subdivision;
(k) the provision of land needed by other organs of state;
(l) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality;
(m) the registration of public places in the name of the municipality;
(n) the transfer of ownership to the municipality of land needed for other public purposes;
(o) the implementation of a subdivision in phases;
(p) the payment of a contravention levy in respect of the unlawful utilisation of land;
(q) requirements of other organs of state.

(3) Subject to subsection (12), a condition contemplated in subsection (2)*(b)* may require a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the municipality in accordance with norms and standards as may be prescribed.

(4) Municipal public expenditure contemplated in subsection (3) includes, but is not limited to, municipal public expenditure for municipal service infrastructure and amenities relating to—

(a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;

(b) conservation purposes;

(c) energy conservation;

(d) climate change; or

(e) engineering services.

(5) When determining the contribution contemplated in subsections (3) and (4), a municipality must have regard to at least—

(a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;

(b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;

(c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;

(d) money in respect of contributions contemplated in subsection (3) paid in the past by the owner of the land concerned; and

(e) money in respect of contributions contemplated in subsection (3) to be paid in the future by the owner of the land concerned.

(6) Except for land needed for public places or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.

(7) A municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required.

(8) If a municipality imposes a condition contemplated in subsection (2)*(a)*, an engineering services agreement must be concluded between the municipality and the owner of the land concerned before the installation of infrastructure commences on the land.

(9) An owners' association or home owners' association that came into being by virtue of a condition imposed under the Ordinance and that is in existence immediately before the commencement of this Act is regarded as an owners' association that came into being by virtue of a condition imposed by a municipality in accordance with this Act and in terms of applicable by-laws.

(10) If a municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.

(11) A person may not apply to the Registrar of Deeds to transfer an erf unless the person has proved to the satisfaction of the municipality compliance with the conditions of approval that have to be complied with before the land may be transferred.

(12) A municipality may, if appropriate, depart from contributions determined in accordance with subsections (3) and (5).

Amendment of conditions

41. (1) When a municipality, on its own initiative or on application, amends or waives a condition of approval or imposes additional conditions of approval, it must comply with sections 40 and 44.

(2) The amendment or waiver of a condition contemplated in subsection (1) that is a restrictive condition must be approved in accordance with section 39.

Part 9:

Procedures and decision-making

Minimum information to be submitted

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;

(b) a copy of the title deed; and

(c) the consent of the mortgage holder, if any.

Publication of notices

43. (1) When a municipality intends to consider the following, it must at least cause a notice to be published as contemplated in subsections (2) to (4) of its intention:

(a) a land use application for a rezoning or a rezoning on its own initiative contemplated in section 35;
(b) the subdivision of land larger than five hectares inside the outer limit of urban expansion as reflected in its municipal spatial development framework;
(c) the subdivision of land larger than one hectare outside the outer limit of urban expansion as reflected in its municipal spatial development framework;
(d) if the municipality has no approved municipal spatial development framework, the subdivision of land larger than five hectares inside the physical edge, including existing urban land use approvals, of the existing urban area;
(e) if the municipality has no approved municipal spatial development framework, the subdivision of land larger than one hectare outside the physical edge, including existing urban land use approvals, of the existing urban area;
(f) the closure of a public place contemplated in section 37;
(g) a land use application in respect of a restrictive condition contemplated in section 39;
(h) the approval, amendment, repeal or review of a zoning scheme, or approval of a zoning scheme map;
(i) the regulation of exemptions contemplated in section 61;
(j) other applications that will materially affect the public interest or the interests of the community if approved.

(2) A notice contemplated in subsection (1) must be published—

(a) in accordance with section 21 of the Municipal Systems Act in at least two of the official languages of the Province most spoken in the area concerned; and
(b) if publication as contemplated in paragraph *(a)* is considered to be ineffective, through other effective means, including announcements through a loudhailer, publication on websites or community notice boards, or communication through email lists or social media.

(3) A municipality must consider whether a notice contemplated in subsection (1) has to be displayed on the land concerned.

(4) If a notice is displayed on the land, the municipality must ensure that the notice remains legible for the notice period.

(5) A notice contemplated in subsection (1) or a notice in terms of the land use planning requirements of a municipality must contain at least the following information:

(a) the purpose of the matter that is being published;
(b) a description of the land unit or land units to which the notice relates;
(c) where and when particulars of the matter that is being published are available for inspection; and
(d) the procedure for persons who are interested and affected by the notice to submit written comments within a period of at least 30 days.

(6) The publication of a notice contemplated in subsection (1) does not release a municipality from the obligation to cause a notice to be served in the instances contemplated in section 44(1).

Serving of notices

44. (1) When a municipality intends to consider the following, it must at least cause a notice to be served as contemplated in subsection (2) of its intention:

(a) a determination of a zoning or a deemed zoning contemplated in section 34;
(b) a land use application for rezoning or rezoning on its own initiative contemplated in section 35;
(c) a land use application for subdivision or the amendment or cancellation of a subdivision contemplated in section 36;
(d) the closure of a public place contemplated in section 37;
(e) a land use application for consolidation contemplated in section 38;
(f) a land use application for the removal, suspension or amendment of a restrictive condition contemplated in section 39;
(g) the imposition, amendment or waiver of a condition contemplated in section 40 or 41.

(2) A notice in terms of subsection (1) or in terms of the land use planning requirements of a municipality, must be served—

(a) on each person whose rights or legitimate expectations will be affected if the matter or application is approved;

(b) in accordance with section 115 of the Municipal Systems Act; and

(c) in at least two of the official languages of the Province that are most spoken in the area concerned.

(3) A municipality must, when causing a notice to be served in terms of subsection (1) or in terms of the land use planning requirements of a municipality, ensure that the person who is notified is able to obtain the following information from the notice:

(a) the purpose of the matter to which the notice relates;

(b) a description of the land unit or land units to which the notice relates;

(c) where and when particulars of the matter of which notice is given are available for inspection; and

(d) the procedure for that person to submit written comments within a period of at least 30 days.

Provincial comment on land use applications

45. (1) A municipality must refer a land use application relating to the following to the Head of Department for written provincial comment once the application is complete in accordance with the requirements of the municipality and section 42:

(a) a development outside the municipality's planned outer limit of urban expansion as reflected in its municipal spatial development framework;

(b) if the municipality has no approved municipal spatial development framework, a development outside the physical edge, including existing urban land use approvals, of the existing urban area;

(c) a rezoning of land zoned for agricultural or conservation purposes;

(d) any development as determined by the municipal manager;

(e) development as prescribed that affects a provincial functional area;

(f) any other category of land use applications as may be prescribed for the purpose of supporting and strengthening the capacity of municipalities.

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

(3) The municipality may not decide on a land use application referred to in subsection (1) until—

(a) it has received and considered the provincial comments referred to in subsection (2); or

(b) the end of the period referred to in subsection (2) and if no provincial comments were received during that period.

(4) The period referred to in subsection (2) may be extended with the concurrence of the municipality.

(5) The regulations contemplated in subsection (1)*(f)* may differentiate between different kinds of—

(a) municipalities, which may be defined in relation to—

(i) the unique circumstances of respective municipalities, including financial resources, capacity and financial viability;

(ii) the categories of municipalities in terms of the Constitution; or

(iii) categories as may be prescribed with regard to the supervision and monitoring of local government; or

(b) land use applications, which may be defined in relation to the categories of land use applications referred to in this Act.

(6) The Provincial Minister may, after consultation with the Provincial Cabinet, appoint a coordinating committee representative of provincial departments to coordinate and compile the comments contemplated in subsection (1).

Maximum time for decision-making

46. (1) A municipality must decide on a land use application within the period as may be prescribed, calculated from the day that the application is complete in accordance with the requirements of the municipality and section 42.

(2) A municipality may extend the period contemplated in subsection (1) in exceptional circumstances related to the nature or complexity of the land use application.

(3) The period contemplated in subsection (1) excludes delays caused by the failure of the applicant to comply with legal requirements.

(4) If a municipality fails to make a decision within the period contemplated in subsection (1), the applicant may appeal to the appeal authority, who must then decide on the land use application.

Comments by organs of state

47. (1) An organ of state must comment on a land use application within 60 days of—

(a) receiving a request for comment on the application; or

(b) receiving all the information necessary to comment if the application is not complete and provided a request for additional information is made within 14 days of receiving the request for comment.

(2) If an organ of state fails to comment within the period referred to in subsection (1), the competent authority must notify the organ of state's accounting officer or accounting authority contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999), of the failure.

Fees for land use applications

48. When a municipality requires the payment of land use application fees, the fees must be consistent with minimum standards as may be prescribed.

Basis of assessment of land use applications

49. When a municipality considers and decides on a land use application, the municipality must have regard to at least—

(a) the applicable spatial development frameworks;

(b) the applicable structure plans;

(c) the principles referred to in Chapter VI;

(d) the desirability of the proposed land use; and

(e) guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use.

Notification of municipal decisions

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

(a) in writing notify the applicant and any person who lodged an objection against the application of the decision; and

(b) draw the attention of the applicant and that person to the fact that he or she may request reasons for the decision and to any right of review or appeal.

Appeals against municipal decisions

51. (1) The operation of the approval of a land use application that is the subject of an appeal is suspended pending the decision of the appeal authority on the appeal.

(2) The municipality must notify the applicant when an appeal has been lodged by a person other than the applicant.

(3) If an appeal is lodged only against conditions imposed in terms of section 40, the municipality may determine that the approval of the land use application is not suspended.

(4) The municipality must notify the parties to the appeal of the decision in respect of the appeal.

Provincial comment on appeals

52. (1) A municipal manager—

(a) may request the Provincial Minister to comment in writing on an appeal to an appeal authority; and

(b) must notify the Provincial Minister of an appeal to an appeal authority in respect of a land use application referred to in section 45(1)*(a)* to *(f)* and request the Provincial Minister to comment on the appeal.

(2) The Provincial Minister must, within 60 days of receiving a request for comment contemplated in subsection (1), submit his or her written comments to the municipal manager.

(3) An appeal authority may not decide on an appeal until—

(a) it has received and considered the comments by the Provincial Minister referred to in subsection (2); or

(b) the end of the period referred to in subsection (2) and if no comments were received from the Provincial Minister during that period.

(4) The period referred to in subsection (2) may be extended with the concurrence of the municipality.

(5) A municipality must, within 30 days of a decision on an appeal contemplated in subsection (1)*(b)*, submit a written notice of the decision and the reasons for the decision to the Provincial Minister.

CHAPTER V

PROVINCIAL DEVELOPMENT MANAGEMENT

Provincial approval of land development

53. (1) No person may without an approval under subsection (2) or an exemption under subsection (3) develop land that will have a substantial effect on—

(a) the orderly, coordinated or harmonious development of a region or the Province;

(b) the general welfare of the inhabitants of a region or the Province; or

(c) agriculture,

due to—

(i) the nature or scale of the proposed land use; or

(ii) the cumulative effect of multiple developments.

(2) The owner of the land concerned or a person authorised by the owner may apply to the Head of Department for approval to develop land that will have the effect contemplated in subsection (1).

(3) The Provincial Minister may exempt categories of land development from requiring approval under subsection (1) in one or more of the following circumstances:

(a) where the land development complies with the applicable spatial development frameworks;

(b) where the land development is consistent with other provincial policy;

(c) to provide for government infrastructure projects; or

(d) where provincial approval was granted in terms of other legislation.

(4) The Provincial Minister may make regulations or, by notice in the *Provincial Gazette*, issue guidelines to provide for categories of land development contemplated in subsection (1).

(5) An approval by the Head of Department of a land development application does not release an applicant from the obligation to obtain the required approval from the municipality for the land development.

(6) An approval by a municipality of a land use application does not release an applicant from the obligation to obtain the required approval from the Head of Department for the land development.

(7) The Head of Department must, after consultation with the head of the provincial department responsible for agriculture, decide on a land development application contemplated in subsection (1)*(c)*.

(8) The Provincial Minister must, after consultation with the Provincial Minister responsible for agriculture, decide on an appeal in respect of a land development application contemplated in subsection (1)*(c)*.

Decision of Head of Department

54. (1) The Head of Department must decide on a land development application within—

(a) 90 days of receipt thereof if the application has been published in terms of an integrated procedure contemplated in section 67(2);

(b) seven months of receipt thereof if the application is processed as contemplated in subsection (2); or

(c) the prescribed period contemplated in section 67(4).

(2) The Provincial Minister must prescribe procedures in respect of land development applications, including procedures for public participation, intergovernmental consultation and for the manner in which the Head of Department receives, considers and decides on a land development application.

(3) If a land development application has not been published as contemplated in subsection (1)*(a)* or *(c)*, the Head of Department must cause the application to be published in terms of the procedures contemplated in subsection (2).

(4) The Head of Department may approve a land development application subject to reasonable conditions that arise from the approval of the proposed utilisation of land.

(5) Conditions imposed in accordance with subsection (4) may include, but are not limited to, conditions relating to—

(a) settlement restructuring;

(b) agricultural or heritage resource conservation;

(c) biodiversity conservation and management;

(d) energy efficiency;

(e) requirements to address climate change;

(f) the provision of land needed by other organs of state;

(g) the requirements of other organs of state.

(6) The Head of Department may not approve a land development application subject to a condition that approval in terms of other legislation is required.

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

(a) cause the decision to be published in accordance with the Western Cape Provincial Languages Act, 1998 (Act 13 of 1998), in newspapers circulated in the relevant area and in the *Provincial Gazette*; and

(b) in writing notify the applicant, and any person whose rights are affected and who has submitted comments, of his or her decision.

(8) The Provincial Minister may prescribe application fees payable by an applicant in a land development application.

Basis of assessment of land development applications

55. When the Head of Department considers and decides on a land development application under section 54, the Head of Department—

(a) is limited to considering those aspects of the proposed land development that will have an effect contemplated in section 53(1);

(b) must consider the desirability of those aspects of the proposed land development; and

(c) must have regard to—

(i) the applicable spatial development frameworks;

(ii) the applicable structure plans;

(iii) the principles referred to in Chapter VI; and

(iv) guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land development.

Appeal to Provincial Minister

56. (1) A person whose rights are affected by a decision of the Head of Department under section 54 may, within 21 days of the date of notification of the decision, appeal against the decision by giving written notice of the appeal and the reasons therefor to the Provincial Minister.

(2) The operation of the approval of a land development application that is the subject of an appeal is suspended pending the decision of the Provincial Minister on the appeal.

(3) The Head of Department must notify the applicant when an appeal has been lodged by a person other than the applicant.

(4) If an appeal is lodged only against conditions imposed in terms of section 54(4), the Head of Department may determine that the approval of the land development application is not suspended.

(5) A person whose rights are affected by the failure of the Head of Department to decide on an application within the period contemplated in section 54(1) may appeal

against the delay by giving written notice of the appeal and the reasons therefor to the Provincial Minister.

(6) The Provincial Minister must, within the prescribed period, consider an appeal in accordance with the prescribed procedure and may—

(a) confirm, vary or revoke the decision; or

(b) in the case of an appeal in terms of subsection (5), decide on the application.

(7) The Provincial Minister must, within 14 days of his or her decision, in writing notify the parties to the appeal of the decision.

(8) The Provincial Minister may prescribe appeal fees payable by a person who appeals in terms of this section.

Lapsing of land development approvals

57. (1) The approval of a land development application under section 54 lapses if the following requirements are not met within a period of 10 years from the date on which the approval came into operation:

(a) the approval by the municipality of a building plan envisaged for the utilisation of the land in terms of a use right in respect of the approved land development; and

(b) commencement with the construction of a building envisaged in the building plan referred to in paragraph *(a)*.

(2) A person who is the owner of the land concerned or a person authorised by the owner may apply to the Head of Department for an extension of the period referred to in subsection (1).

(3) An application for an extension must be submitted in writing to the Head of Department before the expiry of the period referred to in subsection (1).

(4) In considering an application for an extension, the Head of Department must have regard to whether—

(a) the circumstances prevailing at the time of the original approval have changed materially;

(b) statutory or policy requirements applicable to the approval that prevailed at the time of the original approval have changed materially; and

(c) new conditions of approval are necessary.

CHAPTER VI

LAND USE PLANNING PRINCIPLES

Application of land use planning principles

58. The land use planning principles set out in this Chapter apply to all organs of state responsible for the implementation of legislation regulating the utilisation and development of land and guide—

(a) the preparation, adoption and implementation of a spatial development framework or zoning scheme and of any policy or law concerning land use planning;

(b) any steps to ensure sustainable development;

(c) the consideration by a competent authority in terms of this Act and any other relevant authority of an application that impacts on the utilisation and development of land; and

(d) the performance of a function in terms of this Act or other legislation regulating land use planning.

Land use planning principles

59. (1) Land use planning is guided by the following principles of spatial justice:

(a) past spatial and other development imbalances should be redressed through improved access to, and utilisation of, land;

(b) spatial development frameworks and policy at all spheres of government should address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements and areas characterised by widespread poverty and deprivation;

(c) spatial planning mechanisms, including zoning schemes, should incorporate provisions that enable redress in access to land by disadvantaged communities and persons;

(d) land use management systems should include all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas and informal settlements;

(e) land development procedures must include provisions that accommodate access to, and facilitation of, security of tenure and the incremental upgrading of informal areas;

(f) a competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome of the application; and

(g) the right of owners to develop land in accordance with current use rights should be recognised.

(2) Land use planning is guided by the following principles of spatial sustainability:

(a) land use planning should—

(i) promote land development that is spatially compact, resource-frugal and within the fiscal, institutional and administrative means of the relevant competent authority in terms of this Act or other relevant authority;

(ii) ensure that special consideration is given to the protection of prime, unique and high potential agricultural land;

(iii) uphold consistency of land use measures in accordance with environmental management instruments;

(iv) promote and stimulate the effective and equitable functioning of land markets;

(v) consider all current and future costs to all parties for the provision of infrastructure and social services in land developments;

(vi) promote land development in locations that are sustainable and limit urban sprawl;

(vii) result in communities that are viable; and

(viii) strive to ensure that the basic needs of all citizens are met in an affordable way;

(b) the sustained protection of the environment should be ensured by having regard to the following:

(i) natural habitat, ecological corridors and areas with high biodiversity importance;

(ii) the provincial heritage and tourism resources;

(iii) areas unsuitable for development, including flood plains, steep slopes, wetlands and areas with a high water table and landscapes and natural features of cultural significance; and

(iv) the economic potential of the relevant area or region;

(c) climate change adaptation and climate change mitigation strategies should be developed and considered in land use planning;

(d) the provision and conservation of, and the management of the demand for, energy should be considered in land use planning;

(e) the safe utilisation of land should be ensured by taking into consideration factors such as sea-level rise, storm surges, flooding, fire hazards and geological formations;

(f) the illegal occupation of land should be discouraged with due recognition of informal land development practices; and

(g) development should be principle-driven and should prioritise long-term social, economic and environmental benefits over short-term benefits.

(3) Land use planning is guided by the following principles of efficiency:

(a) land development should optimise the use of existing resources, infrastructure, agriculture, land, minerals and facilities;

(b) integrated cities and towns should be developed, whereby—

(i) the social, economic, institutional and physical aspects of land development is integrated;

(ii) land development in rural and urban areas in support of each other is promoted;

(iii) the availability of residential and employment opportunities in close proximity to, or integrated with, each other is promoted;

(iv) a diverse combination of land uses is promoted;
(v) the phenomenon of urban sprawl in urban areas is discouraged and the development of more compact towns and cities with denser habitation is promoted;
(vi) historically distorted spatial patterns of settlement are corrected; and
(vii) the quality and functionality of the public spatial environment is promoted; and

(c) policy, administrative practice and legislation should promote speedy land development.

(4) Land use planning is guided by the following principles of good administration:

(a) all spheres of government should ensure an integrated approach to land use planning;
(b) all government departments must provide their sector inputs and comply with any other statutory requirements during the preparation or amendment of spatial development frameworks;
(c) the requirements of any law relating to land development and land use must be met timeously;
(d) the preparation and amendment of spatial plans, policy, zoning schemes and procedures for land development and land use applications, should include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them;
(e) legislation, procedures and administrative practice relating to land development should be clear, promote predictability, trust and acceptance in order to inform and empower members of the public;
(f) a spatial development framework, zoning scheme or policy should be developed in phases and each phase in the development thereof should include consultation with the public and relevant organs of state and should be endorsed by the relevant competent authority;
(g) decision-making procedures should be designed to minimise negative financial, social, economic or environmental impacts;
(h) development application procedures should be efficient and streamlined and timeframes should be adhered to by all parties; and
(i) decision-making in all spheres of government should be guided by and give effect to statutory land use planning systems.

(5) Land use planning is guided by the principle of spatial resilience, whereby flexibility in spatial plans, policy and land use management systems is accommodated to ensure sustainable livelihoods in communities most likely to suffer the impact of economic and environmental shocks.

(6) The Provincial Minister may prescribe further land use planning principles.

(7) The Provincial Minister must, before prescribing principles under subsection (6)—

(a) publish the draft principles in the media in a manner that allows municipalities and other interested persons an opportunity to submit comments on the draft principles; and
(b) consider the comments submitted in terms of paragraph *(a)*.

CHAPTER VII

EXEMPTIONS AND AUTHORISATIONS

Provincial exemptions and authorisations

60. (1) The Provincial Minister may, by notice in the *Provincial Gazette*, exempt a municipality from a provision referred to in Chapter III or IV, to reduce the financial or administrative burden of—

(a) integrated application processes contemplated in section 67;
(b) the provision of housing with the assistance of a state subsidy; or
(c) incremental upgrading of existing settlements.

(2) In an emergency situation, the Provincial Minister may, in writing, authorise a municipality to deviate from a provision of this Act.

(3) An authorisation under subsection (2) expires 90 days from being given unless it is withdrawn before its expiry.

(4) In an emergency situation contemplated in subsection (2), the principles referred to in Chapter VI remain applicable.

(5) The Provincial Minister must—

(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

(b) within 14 days of the authorisation or the amendment or withdrawal of the condition, submit a report thereof to the Provincial Cabinet.

(6) The Provincial Minister may impose, withdraw or amend a condition of an exemption or authorisation under subsection (1) or (2).

Exemptions relating to subdivisions and consolidations

61. (1) The subdivision or consolidation of land units is exempted from the application of sections 36(1) and 38(1) if it arises from—

(a) the implementation of a court ruling; or

(b) an expropriation.

(2) A municipality may, in accordance with section 43, provide for and regulate the exemption from the application of section 36(1) or 38(1) of categories of subdivision or consolidation of land units, including the subdivision or consolidation of land units that arise from the following:

(a) a minor amendment of the common boundary between two or more land units;

(b) the consolidation of a closed public place with an abutting erf;

(c) the construction or alteration of a public or proclaimed street;

(d) the registration of a servitude or a lease agreement for—

  (i) the provision or installation of water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;

  (ii) the provision or installation of telecommunication lines by or on behalf of a licensed telecommunications operator;

  (iii) the granting of a right of way;

  (iv) the imposition of height restrictions; or

  (v) the granting of a right of habitation or usufruct;

(e) the exclusive utilisation of land for agricultural purposes if the utilisation—

  (i) requires approval in terms of legislation regulating the subdivision of agricultural land; and

  (ii) does not lead to urban expansion; or

(f) exceptional circumstances if the exemption does not adversely affect municipal land use planning or the rights or legitimate expectations of any person.

(3) The Surveyor-General may not approve or amend a general plan or diagram in respect of the subdivision or consolidation of land units contemplated in this section without written confirmation from the municipality that the subdivision or consolidation is exempted by a municipality in accordance with this section.

CHAPTER VIII

PLANNING ADVISORY COMMITTEE

Planning Advisory Committee

62. (1) The Provincial Minister may establish a Planning Advisory Committee.

(2) The Committee advises and makes recommendations to the Provincial Minister at his or her request, with regard to—

(a) matters affecting the application of this Act; or

(b) regulations that may be necessary in terms of this Act.

Composition of Committee

63. (1) The members of the Committee must be appointed by the Provincial Minister and consist of—

(a) an employee of the Department designated by the Head of Department, as an *ex officio* member; and

(b) not less than five and not more than 10 other members as the Provincial Minister may determine.

(2) The members of the Committee must be appointed by virtue of their qualifications and experience in, and knowledge of, land use planning and matters connected with the application of this Act and must permanently reside in the Province.

(3) The members of the Committee referred to in subsection (1)*(b)* may be appointed only after the Provincial Minister, by notice in the *Provincial Gazette* and in other media that the Provincial Minister may consider appropriate, has invited interested parties to submit within the period mentioned in the notice, names of persons who are fit and proper persons to be so appointed.

Term of office and conditions of service

64. (1) A member is appointed for a term of three years, which is renewable once.

(2) The office of a member becomes vacant if—

(a) the member is absent from two consecutive meetings of the Committee without the leave of the chairperson of the Committee;

(b) the member tenders his or her resignation in writing to the chairperson of the Committee;

(c) the member is removed from the Committee under subsection (3); or

(d) the member dies.

(3) The Provincial Minister may remove a member of the Committee if sufficient reasons exist for his or her removal.

(4) A vacancy on the Committee must be filled by the Provincial Minister in terms of section 63.

(5) A member who is appointed by virtue of subsection (4) holds office for the unexpired portion of the period for which the member he or she replaces was appointed.

(6) The Provincial Minister must designate a chairperson and a vice-chairperson for the Committee from among the members of the Committee.

(7) The Provincial Minister may determine other conditions of appointment not provided for in this section.

(8) Members of the Committee referred to in section 63(1)*(b)* must be appointed on the terms and conditions and must be paid the remuneration and allowances and be reimbursed for expenses as determined by the Provincial Minister with the concurrence of the member of the Provincial Cabinet responsible for finance.

Meetings of Committee

65. (1) The Committee may with the approval of the Provincial Minister make rules in respect of decision-making by the Committee and the holding of, and the procedures at, meetings of the Committee.

(2) Meetings of the Committee must be held at the times and places determined by the chairperson of the Committee in accordance with the rules of the Committee.

(3) The Committee may appoint a subcommittee comprised of members of the Committee with the necessary expertise to advise the Provincial Minister on a particular matter.

CHAPTER IX

GENERAL PROVISIONS

Part 1:

Assessment of land use planning matters

Assessments and recommendations by registered planners

66. (1) A municipality must consider a written assessment of, and recommendation by, a registered planner appointed, subject to subsection (2), by the municipality before deciding on—

(a) the adoption or amendment of a municipal spatial development framework;

(b) the adoption or amendment of a zoning scheme;

(c) a rezoning;

(d) a subdivision of a land area referred to in a land use application into more than 20 cadastral units;

(e) the closure of a public place; or

(f) a removal, suspension or amendment of a restrictive condition if it relates to a change of land use.

(2) The Provincial Government may on the request of a municipality that does not have the services of a registered planner at its disposal, appoint a registered planner, subject to the laws regulating appointments or secondment in the public service or procurement of services by the Department, to provide the assessment and recommendation contemplated in subsection (1).

(3) The Provincial Government may enter into an agreement with a municipality contemplated in subsection (2) in respect of the liability for the costs associated with the appointment of a registered planner by virtue of subsection (2).

(4) The Head of Department or the Provincial Minister, as the case may be, must consider a written assessment of, and recommendation by, a registered planner appointed in terms of the laws regulating appointments in the public service or procurement of services by the Department, before—

(a) deciding on the adoption or amendment of a provincial spatial development framework or provincial regional spatial development framework;

(b) providing comments contemplated in section 12(4) or 13(2) on the adoption or amendment of a municipal spatial development framework;

(c) providing comments contemplated in section 26(4) or 27(2) on the adoption or amendment of a zoning scheme;

(d) providing comments contemplated in section 45 on a land use application;

(e) providing comments contemplated in section 52 on an appeal; or

(f) deciding on a land development application contemplated in Chapter V.

Part 2:

Integrated procedures and decisions

Integrated procedures and decisions

67. (1) The Head of Department, municipalities and other organs of state that administer other legislation relating to activities that require approval in accordance with this Act as well as that legislation—

(a) must strive to coordinate and align the procedural requirements for decision-making in terms of this Act and that legislation, to avoid duplication; and

(b) may enter into written agreements with one another to avoid duplication in the submission of information or the execution of a process.

(2) An agreement contemplated in subsection (1)*(b)* may—

(a) provide for integrated approvals;

(b) facilitate the integrated submission, public and intergovernmental consultation and assessment of multiple applications by municipalities, the Head of Department and other organs of state, for a specific proposed development or utilisation of land;

(c) facilitate the simultaneous publication of the decisions of municipalities, the Head of Department and other organs of state with regard to a specific proposed development or utilisation of land; or

(d) provide a framework for the coordination of procedural requirements for applications imposed by or under by-laws, this Act or other legislation.

(3) An integrated approval contemplated in subsection (2)*(a)* may be approved only if—

(a) a written agreement has been entered into between the organs of state approving the integrated approval;

(b) all relevant provisions of applicable by-laws, this Act and the other legislation have been complied with;

(c) the approval specifies—

(i) the provisions in terms of which it is approved; and

(ii) the organs of state approving it; and

(d) the respective decisions of the organs of state that form part of the integrated approval are published simultaneously in the media if publication thereof is required.

(4) The Provincial Minister may make regulations or issue guidelines to coordinate and align procedural requirements imposed in terms of—

(a) this Act; and

(b) other legislation relating to activities that require approval in accordance with this Act.

(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.

(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.

Part 3:

Enforcement, offences and penalties

Powers to inspect and enforce

68. (1) An employee designated by the Head of Department may enter land or a building to—

(a) conduct an inspection to determine whether a person is complying with the terms or conditions of an approval granted under section 54 or 56(6) or a notice issued in terms of section 70;

(b) conduct an inspection to determine whether a person is complying with section 53(1); and

(c) 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).

(2) When conducting an inspection contemplated in subsection (1)*(a)* or *(b)*, the designated employee may—

(a) request that any record, document or item be produced that will assist in the inspection;

(b) make copies of, or take extracts from, any document produced by virtue of paragraph *(a)* or that is found on the land or in the building concerned and that is related to the inspection; or

(c) on providing a receipt, remove a record, document or other item contemplated in paragraph *(b)*.

(3) No person may hinder or obstruct a designated employee who is conducting an inspection or an enforcement action.

(4) An inspection or an enforcement action under subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

(5) The designated employee may enter and inspect the land or building concerned only with the consent of a person who may consent thereto or under authority of a warrant issued under section 69.

(6) The designated employee must, upon request, produce identification showing that he or she is authorised by the Head of Department to conduct the inspection or enforcement action.

(7) The designated employee is not required to give reasonable or any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if—

(a) he or she believes on reasonable grounds that a warrant will be issued to him or her on application under section 69; and

(b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.

(8) The entry of land, a building or structure under this section must be conducted with strict regard to decency and order, which must include regard to—

(a) a person's right to respect for, and protection of, his or her dignity;

(b) the right to freedom and security of the person; and

(c) the right to a person's personal privacy.

Warrant

69. A judge or a magistrate, upon being satisfied by information on oath that—

(a) a designated employee has been refused entry to land or a building that he or she is entitled to inspect or on which he or she may carry out an enforcement action;

(b) a designated employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect or on which he or she may carry out an enforcement action will be refused;

(c) there are reasonable grounds for suspecting that a contravention contemplated in section 68(1)*(a)* or *(b)* has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or

(d) the inspection is reasonably necessary for the purposes of this Act,

may, upon application without notice, issue a warrant authorising the designated employee and any other person named in the warrant to enter the land or building and conduct an inspection or enforcement action.

Notice to remedy contraventions

70. If a designated employee finds that a person is—

(a) contravening or failing to comply with section 53(1); or

(b) failing to comply with the conditions imposed in respect of an approval granted under section 54 or 56(6),

the designated employee may give a written notice to that person requiring him or her to remedy the contravention or failure to comply with the conditions.

Contents of notice

71. The notice referred to in section 70 may—

(a) direct the person to whom it is addressed to stop doing something, or to change the way in which the person is doing something;

(b) direct the person to take any action or measure necessary to remedy the contravention and, where necessary, prevent a recurrence of the contravention;

(c) state a time period within which the person must comply with the notice;

(d) state that if the person does not comply with the notice within the specified time period, the Head of Department may take any action required to remedy the contravention at the expense of the person.

Remedying contraventions

72. (1) The Head of Department may take any action or measure that is reasonable to remedy a contravention of conditions of an approval granted under section 54 or 56(6) or a contravention of section 53(1), if—

(a) the designated employee has given a written notice under section 70;

(b) the notice contains the relevant matters contemplated in section 71;

(c) the person to whom the notice was directed has not complied with the notice within the time period specified in the notice; and

(d) the deadline for requesting a review under section 73(1) has passed or, if a review of the notice has been requested, the decision of the Provincial Minister is that the Head of Department must take the action or measure.

(2) The Head of Department may recover the costs of an action or measure taken under this section from the person to whom the notice referred to in subsection (1)*(a)* was directed.

Review by Provincial Minister

73. (1) A person who is given a notice under section 70 may, no later than 14 days after the notice is received, in writing apply to the Provincial Minister to review the notice.

(2) After receiving a written request to review a notice, the Provincial Minister must, within 21 days of receipt of the request, review the notice and confirm, vary or rescind the notice.

Offences and penalties

74. (1) It is an offence for—

(a) a person to contravene or fail to comply with section 53(1) or 68(3);

(b) a person to supply particulars, information or answers in a land development application or in an appeal against a decision on a land development application, knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct;

(c) a person to contravene or fail to comply with a condition imposed in respect of an approval referred to in section 54 or 56(6);

(d) a person to hinder or obstruct the Head of Department acting under section 72; or

(e) a person to fail to comply with a notice given under section 70.

(2) A person who is guilty of an offence under subsection (1) is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such imprisonment.

(3) A person convicted of an offence under this Act who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to a fine or imprisonment for a period not exceeding three months, or to both a fine and such imprisonment, in respect of each day on which he or she so continues or has continued with the action.

(4) Regarding offences, fines and penalties, a municipality must make provision for at least—

(a) offences, fines and penalties to enforce the provisions of—

(i) a zoning scheme;

(ii) conditions of approval contemplated in section 40; and

(iii) sections 30, 36(1) and 38(1);

(b) investigations into alleged contraventions of its zoning scheme;

(c) the issuing of directions to cease unlawful development or utilisation of land within a reasonable time period, which may include the following:

(i) rehabilitating the land concerned to its original form;

(ii) applying for approval of the development from the municipality within a period determined by the municipality; and

(iii) payment of a contravention levy in the event that the approval referred to in subparagraph (ii) is granted; and

(d) the right of a person reasonably affected by an alleged offence to request the municipality to investigate the alleged offence and to take steps contemplated in paragraph *(c)*.

Part 4:

Delegations

Delegation of powers and assignment of duties

75. (1) The Premier may delegate any of his or her powers or assign any of his or her duties in terms of this Act to the Provincial Minister.

(2) The Provincial Minister may delegate or assign any of his or her powers or duties in terms of this Act, except the power to make regulations, to the Head of Department.

(3) The Head of Department may delegate any of his or her powers or assign any of his or her duties in terms of this Act to—

(a) an employee in the Department; or

(b) the holder of a specific office or position in the Department.

(4) A delegation or assignment referred to in subsection (1), (2) or (3)—

(a) must be in writing;

(b) may be made subject to conditions;

(c) may be withdrawn or amended in writing by the Premier, the Provincial Minister or the Head of Department, as the case may be;

(d) may permit the further delegation of that power or further assignment of that duty;

(e) does not prevent the Premier, the Provincial Minister or the Head of Department, as the case may be, from exercising that power or performing that duty; and

(f) does not divest the Premier, the Provincial Minister or the Head of Department, as the case may be, of the responsibility regarding the exercise of the delegated power or the performance of the assigned duty.

Part 5:

Regulations and guidelines

Regulations and guidelines

76. (1) The Provincial Minister—

(a) must make regulations regarding matters that must be prescribed;

(b) may make regulations regarding any matter that may be prescribed;

(c) may make regulations or issue guidelines consistent with this Act in order to facilitate the implementation of this Act, regarding—

(i) principles, norms and standards necessary for orderly and coordinated land use planning, the promotion of integrated socio-economic development, the determination of the outer limit of urban expansion or types of development permitted or not permitted beyond the outer limit of urban expansion;

(ii) minimum standards for application procedures;

(iii) minimum standards for housing provided with the assistance of a state subsidy, engineering services, energy use, adaptation to climate change or social facilities;

(iv) minimum standards relating to the extent of land required for municipal service infrastructure or amenities contemplated in section 40(3) and the proportional contribution by an applicant to municipal public expenditure in respect thereof;

(v) minimum standards for conditions relating to the cession of land or the payment of money contemplated in section 40(2)*(b)*;

(vi) procedures for inspection and enforcement actions referred to in sections 68 to 73.

(2) The Provincial Minister may make different regulations in respect of different municipalities according to their respective capacities to achieve the objectives of this Act.

Part 6:

Repeal of laws, and savings and transitional provisions

Repeal of laws

77. (1) The laws mentioned in the Schedule are repealed from the date of commencement of this section and to the extent indicated in the third column of the Schedule.

(2) A reference in any other law or document to any of the laws listed in the Schedule is considered to be a reference to this Act and applicable by-laws.

Savings and transitional provisions

78. (1) Any approval, designation, consent, right or authorisation issued, granted or in force in terms of a law repealed by this Act, and in existence immediately before the commencement of this Act, remains in force and is regarded to have been issued or granted in accordance with this Act and in terms of the corresponding provisions of applicable by-laws for the period for which, and subject to the conditions under which, it was issued or granted under the repealed law until withdrawn, amended or extended in terms of applicable by-laws.

(2) Despite section 77, any action taken or application made before the commencement of this Act in terms of a law repealed by this Act and that has not been finalised immediately before the commencement of this Act must be finalised as if this Act is not in force.

(3) The provisions of the Rural Areas Act relating to the survey of land and the issuing of a deed of grant or deed of transfer continue to apply to land to which that Act applied immediately before the commencement of this Act until all actions relating to the survey

of land and the registration of erven in terms of an approved plan under section 20(2)*(a)* of that Act, have been finalised.

(4) The provisions of the Less Formal Township Establishment Act and the 1984 Regulations continue to apply to land to which they applied immediately before the commencement of this Act or that is designated or approved for township establishment by virtue of subsection (2) until all actions relating to the establishment of the township and registration of erven have been finalised.

(5) After the commencement of this Act, an amendment of a layout plan or general plan of a township that was established or approved under the Less Formal Township Establishment Act or the 1984 Regulations, or an amendment of a plan that was prepared under section 20(2)*(a)* of the Rural Areas Act, must be approved by the municipality in accordance with this Act and in terms of applicable by-laws.

(6) The Planning Advisory Board established under section 33 of the Ordinance continues to exist and may finalise recommendations that are pending or in progress immediately before the commencement of this Act and matters referred to it by virtue of subsection (2) for a recommendation.

(7) The Provincial Minister must disestablish the Planning Advisory Board by notice in the *Provincial Gazette* upon completion of the matters contemplated in subsection (6).

(8) Despite subsections (2) to (5), the Provincial Minister may, in order to ensure orderly transitional arrangements, prescribe that a particular category of matters must be finalised in accordance with this Act and in terms of applicable by-laws and may prescribe any other measure to ensure orderly transitional arrangements.

Part 7:

Short title and commencement

Short title and commencement

79. (1) This Act is called the Western Cape Land Use Planning Act, 2014, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different municipal areas of the Province.

(3) If the Premier determines different dates for the commencement of different provisions of this Act, a reference in a provision of this Act to the date of commencement of this Act must be construed as a reference to the date determined by the Premier for the commencement of that provision in the municipal area concerned.

SCHEDULE

LAWS REPEALED BY SECTION 77

Number and year	Short title	Extent of repeal
Act 84 of 1967	Removal of Restrictions Act, 1967	The whole in so far as assigned to the Province
Act 8 of 2007	Western Cape Removal of Restrictions Amendment Act, 2007	The whole
Act 88 of 1967	Physical Planning Act, 1967	Sections 8, 9, 9(A) and 12 in so far as assigned to the Province
Ordinance 20 of 1974	Municipal Ordinance, 1974	Sections 137 and 138
Ordinance 18 of 1976	Divisional Councils Ordinance, 1976	Sections 138 and 139
Act 4 of 1984	Black Communities Development Act, 1984	Sections 52 and 57B in so far as assigned to the Province
Ordinance 15 of 1985	Land Use Planning Ordinance, 1985	The whole
Proclamation 100/1987 of 30 October 1987 (*Provincial Gazette* 4504)	Amendment proclamation 100/1987	The whole
Proclamation 6/1992 of 7 February 1992 (*Provincial Gazette* 4734)	Amendment proclamation 6/1992	The whole
Proclamation R.168/1994 of 31 October 1994 (*Government Gazette* 16049)	Amendment proclamation R.168/1994	The whole
Act 5 of 2001	Western Cape Act on the Amendment of the Land Use Planning Ordinance, 2001	The whole
Act 7 of 2002	Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2002	The whole
Act 6 of 2003	Land Use Planning Ordinance, 1985, Amendment Act, 2003	The whole
Act 2 of 2004	Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2004	The whole
Act 5 of 2005	Land Use Planning Ordinance, 1985, Amendment Act, 2005	The whole
Act 1 of 2009	Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2009	The whole

Number and year	**Short title**	**Extent of repeal**
Act 2 of 2011	Western Cape Land Use Planning Ordinance Amendment Act, 2011	The whole
Act 3 of 2011	Western Cape Land Use Planning Ordinance Second Amendment Act, 2011	The whole
Government Notice R.1897/1986 published in *Government Gazette* 10431 of 12 September 1986	Regulations Relating To Township Establishment and Land Use in terms of the Black Communities Development Act, 1984	The whole in so far as it applies to existing town planning schemes and zoning schemes referred to in section 33
Act 9 of 1987	Rural Areas Act (House of Representatives), 1987	The whole in so far as assigned to the Province
Provincial Notice 733/1989 published in *Provincial Gazette* 4606 of 22 September 1989	The Establishment and Amendment of Town Planning Schemes for the Province of the Cape of Good Hope (Regulations in terms of the Black Communities Development Act, 1984)	The whole
Act 113 of 1991	Less Formal Township Establishment Act, 1991	The whole in so far as assigned to the Province
Act 6 of 2007	Western Cape Less Formal Township Establishment Amendment Act, 2007	The whole
Act 7 of 1999	Western Cape Planning and Development Act, 1999	The whole

MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE LAND USE PLANNING BILL, 2014

1. BACKGROUND

1.1 The Western Cape Land Use Planning Bill, 2014 (the Bill), responds to the need for a modernised and efficient system for land use planning which facilitates sustainable development in the Province of the Western Cape (the Province). The Bill is necessitated by the need for legal reform in respect of land use planning, which is still governed by legislation that pre-dates the Constitution of the Republic of South Africa, 1996 (the Constitution). Important in this reform is the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), which was assented to on 2 August 2013.

1.2 The Constitution distributes functional areas relating to planning across all three spheres of government. The Bill provides for the regulation of provincial planning, regional planning and development, urban and rural development, the regulation, support and monitoring of municipal planning and the regulation of public places and municipal roads in line with this division.

2. PURPOSE OF BILL

2.1 The Bill focuses on seven objectives. Firstly, it consolidates legislation in the Province pertaining to provincial planning, regional planning and development, urban and rural development, the regulation, support and monitoring of municipal planning and the regulation of public places and municipal roads arising from subdivisions. Secondly, it makes provision for provincial spatial development frameworks. Thirdly, it provides for minimum standards for, and the efficient coordination of, spatial development frameworks. Fourthly, it provides for minimum norms and standards for effective municipal development management. Fifthly, it regulates provincial development management. Sixthly, it provides for land use planning principles, and lastly it repeals certain old-order laws.

3. CONTENTS OF BILL

3.1 CHAPTER I: INTERPRETATION

Chapter 1 contains the definitions.

3.2 CHAPTER II: FUNCTIONS OF MUNICIPALITIES AND PROVINCIAL GOVERNMENT

3.2.1 For the purposes of the Bill, Chapter II sets out a broad division of responsibilities between the provincial government and municipalities in the Province.

3.2.2 Municipalities are responsible for land use planning in their municipal areas. Metropolitan and local municipalities must at least regulate relevant aspects regarding zoning schemes, the consideration of land use applications and the enforcement of their by-laws and decisions with regard to land use planning.

3.2.3 The provincial government is responsible for adopting a provincial spatial development framework and, where applicable, provincial regional spatial development frameworks. Furthermore the provincial government must regulate, support and monitor municipal land use planning to see to the effective performance by municipalities of their land use planning functions.

3.2.4 The provincial government is also responsible for deciding on land development applications that will have a substantial effect on the orderly, coordinated or harmonious development of a region or the Province or the general welfare of the inhabitants of a region or the Province due to the nature or scale of the proposed land use or the cumulative effect of multiple developments. Such developments will need both municipal and provincial approval.

3.3 CHAPTER III: SPATIAL PLANNING

3.3.1 The Bill requires forward planning in the provincial and municipal sphere of government. The provincial government will adopt a provincial spatial development framework (PSDF) and municipalities will adopt municipal spatial development frameworks (MSDFs). In some instances the provincial government may compile a provincial regional spatial development framework (PRSDF).

3.3.2 The drafting and approval of an MSDF is regulated by the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), which instructs municipalities to adopt spatial development frameworks as part of integrated development plans. Chapter III provides for further minimum standards for the drafting and adoption of spatial development frameworks to ensure effective spatial planning by municipalities. The Bill provides for minimum requirements for municipal spatial development frameworks relating to the contents thereof and to ensure alignment thereof with provincial strategies and development plans.

3.3.3 The Bill makes provision for municipalities to choose whether to establish intergovernmental steering committees, on which the provincial government will be represented during the drafting of an MSDF, or to consider compulsory comments by the Provincial Minister before a municipal spatial development framework is adopted by a municipality. These provisions of the Bill ensure that the provincial government is afforded the opportunity to comment on an MSDF before its adoption or amendment, which is a justifiable exercise of the provincial government's power to see to the effective exercise by municipalities of their executive authority with regard to municipal planning. These provisions will furthermore contribute to the balancing of economic, social and environmental interests in the future shape of a particular area.

3.4. CHAPTER IV: MUNICIPAL DEVELOPMENT MANAGEMENT

3.4.1 Chapter IV regulates the various instruments for municipal development management. It sets minimum standards for the manner in which municipalities must compile, adopt and amend zoning schemes. The Bill makes provision for municipalities to choose whether to establish intergovernmental steering committees, on which the Province will be represented during the compilation or amendment of a zoning scheme, or to consider compulsory comments thereon by the Provincial Minister before a zoning scheme is adopted or amended by a municipality. These provisions of the Bill ensure that the Province is afforded the opportunity to comment on a zoning scheme before its adoption or amendment and is a justifiable exercise of the Province's power to see to the effective exercise by municipalities of their executive authority in respect of municipal planning.

3.4.2 This Chapter furthermore provides for minimum requirements for the menu of instruments for development management, namely rezoning, departure, consent use, subdivision, consolidation and the removal, suspension or amendment of restrictive conditions. The Bill provides for minimum standards and requirements that municipalities must comply with when they adopt their own rules and procedures in respect of these instruments.

3.4.3 The Bill provides minimum standards for development management. These standards deal with issues such as the minimum information to be submitted by applicants, publication and serving of notices to make provision for public participation in decision-making and to ensure that affected parties are notified, maximum time for decision-making by municipalities, consultation with other organs of state, fees for land use applications, the basis of assessment of land use applications, notification of municipal decisions and the suspension of decisions pending appeals.

3.4.4 The Bill further provides for the constitutional powers of the Provincial Minister in respect of support and monitoring, which entitle him or her (and his or her department) to comment on certain land use applications and appeals before they are considered by municipalities. Such comments will alert municipalities to any

fundamental problems with applications and appeals requiring that they be refused or other problems which must be addressed by the imposition of appropriate conditions of approval. This requirement in the Bill, that the provincial government be afforded the opportunity to comment, is a justifiable exercise of its power to see to the effective exercise by municipalities of their executive authority in respect of municipal planning. It will also prevent unnecessary appeals and overburdening courts with review cases.

3.5. CHAPTER V: PROVINCIAL DEVELOPMENT MANAGEMENT

3.5.1 Chapter V defines and regulates the power of the provincial government to approve land development that will have a substantial effect on the orderly, coordinated or harmonious development of a region or the Province or the general welfare of the inhabitants of a region or the Province due to the nature or scale of the proposed land use or the cumulative effect of multiple developments. It defines the types of development that require the Head of Department's approval (in addition to the municipality's approval). The Head of Department considers only those aspects of the development that concern provincial planning interests. The provincial approval is required when the development is of a scale or will have an impact that surpasses municipal boundaries. The Provincial Minister may exempt prescribed categories of land development from requiring provincial approval.

3.5.2 In order to minimise red tape, the Bill provides for provincial decision-making procedures under this Chapter to be integrated with the municipal decision-making procedures contemplated in Chapter IV.

3.5.3 The Bill also provides for a right to appeal to the Provincial Minister against a decision of the Head of Department. Provincial approvals lapse if the approved land development is not commenced within 10 years from the date on which a land development approval came into operation.

3.6 CHAPTER VI: LAND USE PLANNING PRINCIPLES

Chapter VI provides for land use principles that apply across the Province. These principles express the provincial government's concern over issues such as spatial justice and sustainability, efficiency, good administration and spatial resilience. Organs of state must have regard to these principles when they regulate planning, approve plans or make land use decisions.

3.7 CHAPTER VII: EXEMPTIONS AND AUTHORISATIONS

3.7.1 Chapter VII empowers the Provincial Minister to exempt municipalities from certain provisions of the Bill in order to reduce the administrative or financial burden on municipalities and to authorise municipalities to deviate in emergency situations from the minimum standards set in the Bill.

3.7.2 This Chapter further provides for minimum standards that municipalities must comply with when they provide for exemptions relating to subdivisions and consolidations.

3.8 CHAPTER VIII: PLANNING ADVISORY COMMITTEE

3.8.1 Chapter VIII empowers the Provincial Minister to establish a Planning Advisory Committee to render advice that may be necessary on the application of this Bill and its regulations.

3.8.2 This Chapter provides for the composition of the Planning Advisory Committee, requirements relating to qualifications and experience of the members, the term of office and conditions of service of the members, and makes provision for meetings of the committee.

3.9 CHAPTER IX: GENERAL PROVISIONS

3.9.1 Chapter IX requires a municipality, the Provincial Minister and the Head of Department to consider a written assessment and recommendation by a

professional or technical planner registered in terms of the Planning Profession Act, 2002 (Act 36 of 2002), before it decides or comments on certain land use planning matters. The type of applications and matters specified in this provision of the Bill often concern issues which require professional insight. The provincial government can legitimately require, as part of its oversight function, that municipalities consider professional planning input before deciding on these matters. In this regard the Bill provides that municipalities that do not have the services of a registered planner at their disposal can approach the Province to appoint a professional planner to provide a report. The provision does not curtail the discretion of a municipality, or a planning official with delegated power, to decide on matters contrary to the recommendation of the registered planner. The provision also does not dictate which category of persons may compile land use applications.

3.9.2 This Chapter also provides that efforts must be made to integrate the multiple procedures applicable to a single development through agreements, integrated approvals and joint public and intergovernmental consultation. The Bill also allows decisions on applications to be made through a process prescribed by other legislation if that process meets the requirements of applicable by-laws and this Bill.

3.9.3 Chapter IX further provides for provincial powers to inspect and enforce compliance with requirements relating to land development approvals by the Head of Department. The Bill proposes the creation of offences and penalties in this regard.

3.9.4 The Bill makes provision for the delegation of powers and the assignment of duties by the Premier, Provincial Minister and Head of Department.

3.9.5 This Chapter further empowers the Provincial Minister to make regulations to facilitate the implementation of the Bill once enacted.

3.9.6 This Chapter further provides for the repeal of old order planning legislation, certain savings and transitional arrangements, and makes provision for the commencement date of the Act to differ in various municipal areas.

4. FINANCIAL IMPLICATIONS

The provincial land use planning function will be budgeted for in forthcoming financial years.

5. CONSULTATION

5.1 A draft Bill was published in the *Provincial Gazette* for public comment.

5.2 The following parties were also consulted:
Provincial departments
Local Government
Organised Local Government
The National Department of Rural Development and Land Reform
Planning industry role-players

6. LEGISLATIVE COMPETENCE

The Provincial Minister responsible for planning is satisfied that all the provisions of the Bill fall within the legislative competence of the Province.

WETSONTWERP

Ten einde wetgewing in die Provinsie met betrekking tot provinsiale beplanning, streeksbeplanning en -ontwikkeling, stedelike en landelike ontwikkeling, regulering, ondersteuning en monitering van munisipale beplanning en regulering van openbare plekke en munisipale paaie wat uit onderverdelings voortspruit, te konsolideer; om voorsiening te maak vir provinsiale ruimtelike ontwikkelingsraamwerke; om minimum standaarde vir, en die doelmatige koördinering van, ruimtelike ontwikkelingsraamwerke te bepaal; om minimum norme en standaarde vir doeltreffende munisipale ontwikkelingsbestuur te bepaal; om provinsiale ontwikkelingsbestuur te reguleer; om die uitwerking van grond-ontwikkeling op landbou te reguleer; om die uitwerking van grondontwikkeling op landbou te reguleer; om beginsels vir grondgebruikbeplanning te bepaal; om sekere oubedeling-wette te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

INDELING VAN ARTIKELS EN BYLAE

HOOFSTUK I

UITLEG

1. Woordomskrywing

HOOFSTUK II

WERKSAAMHEDE VAN MUNISIPALITEITE EN PROVINSIALE REGERING

2. Werksaamhede van munisipaliteite
3. Werksaamhede van Provinsiale Regering

HOOFSTUK III

RUIMTELIKE BEPLANNING

Deel 1

Provinsiale ruimtelike ontwikkelingsraamwerk

4. Provinsiale ruimtelike ontwikkelingsraamwerk
5. Samestelling, aanneming, wysiging of hersiening van provinsiale ruimtelike ontwikkelingsraamwerk
6. Inisiëring van wysiging van provinsiale ruimtelike ontwikkelingsraamwerk

Deel 2

Provinsiale streeks- ruimtelike ontwikkelingsraamwerke

7. Provinsiale streeks- ruimtelike ontwikkelingsraamwerke

8. Samestelling, aanneming, wysiging, hersiening of intrekking van provinsiale streeks- ruimtelike ontwikkelingsraamwerke
9. Inisiëring van wysiging of intrekking van provinsiale streeks- ruimtelike ontwikkelingsraamwerke

Deel 3

Munisipale ruimtelike ontwikkelingsraamwerke

10. Munisipale ruimtelike ontwikkelingsraamwerke
11. Aanneming of wysiging van munisipale ruimtelike ontwikkelingsraamwerke
12. Interregeringsloodskomitee
13. Prosedure sonder interregeringsloodskomitee
14. Indiening van munisipale ruimtelike ontwikkelingsraamwerke
15. Bestaanbaarheid tussen munisipale ruimtelike ontwikkelingsraamwerke

Deel 4

Oorgangs- en algemene reëlings

16. Struktuurplanne
17. Voortsetting van ruimtelike ontwikkelingsraamwerke
18. Publisering van ruimtelike ontwikkelingsraamwerke
19. Voldoening aan, of bestaanbaarheid met, en verskil van, ruimtelike ontwikkelingsraamwerke of struktuurplanne
20. Rekords van ruimtelike ontwikkelingsraamwerke
21. Integrering van ander planne, beleid of raamwerke

HOOFSTUK IV

MUNISIPALE ONTWIKKELINGSBESTUUR

Deel 1

Soneringskemas

22. Soneringskema vir munisipale gebied
23. Doel van soneringskemas
24. Inhoud van soneringskemas
25. Samestelling of wysiging van soneringskemas
26. Interregeringsloodskomitee
27. Prosedure sonder interregeringsloodskomitee
28. Indiening van soneringskemas
29. Inwerkingtreding van soneringskemas
30. Toegelate aanwending van grond
31. Rekords van soneringskemas
32. Voortsetting van soneringskemas

Deel 2

Bestaande dorpsbeplannings- en soneringskemas

33. Bestaande dorpsbeplannings- en soneringskemas

Deel 3

Sonerings en ander gebruiksregte

34. Gebruiksregte
35. Hersonerings, afwykings of vergunningsgebruike

Deel 4

Onderverdeling

36. Onderverdeling van grond

Deel 5

Openbare plekke

37. Openbare plekke

Deel 6

Konsolidering van grondeenhede

38. Konsolidering van grondeenhede

Deel 7

Beperkende voorwaardes

39. Opheffing, opskorting of wysiging van beperkende voorwaardes

Deel 8

Voorwaardes

40. Voorwaardes
41. Wysiging van voorwaardes

Deel 9

Prosedures en besluitneming

42. Minimum inligting ter indiening
43. Publisering van kennisgewings
44. Betekening van kennisgewings
45. Provinsiale kommentaar op grondgebruikaansoeke
46. Maksimum tyd vir besluitneming
47. Kommentaar deur staatsorgane
48. Gelde vir grondgebruikaansoeke
49. Grondslag van evaluering van grondgebruikaansoeke
50. Kennisgewing van munisipale besluite
51. Appèlle teen munisipale besluite
52. Provinsiale kommentaar op appèlle

HOOFSTUK V

PROVINSIALE ONTWIKKELINGSBESTUUR

53. Provinsiale goedkeuring van grondontwikkeling
54. Besluit van Departementshoof
55. Grondslag van evaluering van grondontwikkelingsaansoeke
56. Appèl na Provinsiale Minister
57. Verval van grondontwikkelingsgoedkeurings

HOOFSTUK VI

BEGINSELS VIR GRONDGEBRUIKBEPLANNING

58. Toepassing van beginsels vir grondgebruikbeplanning
59. Beginsels vir grondgebruikbeplanning

HOOFSTUK VII

VRYSTELLINGS EN MAGTIGINGS

60. Provinsiale vrystellings en magtigings
61. Vrystellings in verband met onderverdelings en konsoliderings

HOOFSTUK VIII

BEPLANNINGSADVIESKOMITEE

62. Beplanningsadvieskomitee

63. Samestelling van Komitee
64. Ampstermyn en diensvoorwaardes
65. Vergaderings van Komitee

HOOFSTUK IX

ALGEMENE BEPALINGS

Deel 1

Evaluering van aangeleenthede oor grondgebruikbeplanning

66. Evaluerings en aanbevelings deur geregistreerde beplanners

Deel 2

Geïntegreerde prosedures en besluite

67. Geïntegreerde prosedures en besluite

Deel 3

Afdwinging, misdrywe en strawwe

68. Bevoegdhede om ondersoek uit te voer en om af te dwing
69. Lasbrief
70. Kennisgewing om oortredings reg te stel
71. Inhoud van kennisgewing
72. Regstelling van oortredings
73. Hersiening deur Provinsiale Minister
74. Misdrywe en strawwe

Deel 4

Delegering

75. Delegering van bevoegdhede en opdraging van pligte

Deel 5

Regulasies en riglyne

76. Regulasies en riglyne

Deel 6

Herroeping van wette, en voorbehoude en oorgangsbepalings

77. Herroeping van wette
78. Voorbehoude en oorgangsbepalings

Deel 7

Kort titel en inwerkingtreding

79. Kort titel en inwerkingtreding

BYLAE

WETTE HERROEP BY ARTIKEL 77

HOOFSTUK I

UITLEG

Woordomskrywing

1. In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—

"aangewese werknemer" 'n werknemer van die Departement wat ingevolge artikel 68(1) aangewys word om 'n ondersoek en afdwingingsaksie uit te voer;

"aanwending", met betrekking tot grond, die gebruik van grond vir 'n doel of die verbetering van grond, hetsy wettig al dan nie;

"afwyking" 'n gewysigde ontwikkelingsparameter op 'n permanente grondslag verleen of 'n reg om grond vir 'n doel aan te wend op 'n tydelike grondslag verleen;

"algemene plan" 'n algemene plan soos omskryf in artikel 1 van die Grondopmetingswet, 1997 (Wet 8 van 1997);

"appèlgesag" 'n appèlgesag van die munisipaliteit wat 'n appèl teen 'n munisipale besluit beoog in Hoofstuk IV oorweeg;

"beperkende voorwaarde" enige voorwaarde geregistreer teen die titelakte van grond wat die aanwending, ontwikkeling of onderverdeling van die betrokke grond beperk, uitgesluit serwitute wat saaklike of persoonlike regte skep;

"bestaanbaar", met betrekking tot 'n ruimtelike ontwikkelingsraamwerk, 'n grondgebruikaansoek of 'n grondontwikkelingsaansoek, dieselfde as die betekenis uiteengesit in artikel 19(2);

"bevoegde gesag" 'n munisipaliteit, die Provinsiale Kabinet, die Premier, die Provinsiale Minister of die Departementshoof, na gelang van die geval, wat 'n aansoek of werksaamheid beoog in hierdie Wet oorweeg of verrig;

"bevoegde persoon" 'n persoon wat 'n grondgebruikaansoek kan doen, soos bepaal deur die betrokke munisipaliteit;

"Departement" die provinsiale departement verantwoordelik vir grondgebruikbeplanning;

"Departementshoof" die hoof van die provinsiale departement verantwoordelik vir grondgebruikbeplanning;

"diagram" 'n diagram soos omskryf in artikel 1 van die Grondopmetingswet, 1997;

"distriksmunisipaliteit" 'n distriksmunisipaliteit soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998);

"dorpsuitbreiding" 'n grondgebied onderverdeel in erwe, en kan openbare plekke insluit wat as sulks op 'n algemene plan aangedui is;

"eienaar" die persoon geregistreer in 'n akteskantoor as die eienaar van grond of wat regtens die bevoordeelde is;

"erfenishulpbron" 'n plek van kulturele betekenis;

"gebruiksreg", met betrekking tot grond, die reg om daardie grond aan te wend ooreenkomstig die sonering daarvan of ooreenkomstig 'n afwyking, vergunningsgebruik, voorwaarde van goedkeuring of enige ander goedkeuring verleen ten opsigte van die regte om die grond aan te wend;

"geregistreerde beplanner" 'n professionele of tegniese beplanner wat ingevolge die Wet op die Beplanningsprofessie, 2002 (Wet 36 van 2002), geregistreer is, tensy die Suid-Afrikaanse Raad vir Beplanners die werk wat deur 'n geregistreerde beplanner ingevolge hierdie Wet verrig staan te word gereserveer het vir 'n bepaalde kategorie van geregistreerde persone ingevolge artikel 16(2) van die Wet op die Beplanningsprofessie, 2002, in welke geval 'n geregistreerde beplanner daardie kategorie van persone beteken vir wie die werk gereserveer is;

"grond" enige erf of plaasgedeelte, en beteken ook enige verbetering of gebou op die grond en enige saaklike reg in grond;

"grondeenheid" 'n gedeelte grond wat in 'n akteskantoor geregistreer is of geregistreer kan word, en beteken ook 'n serwituut of huurkontrak;

"grondgebruik" die doel waarvoor grond wettiglik aangewend word of aangewend kan word ingevolge 'n soneringskema of ingevolge enige ander goedkeuring, permit of vergunning verleen deur 'n bevoegde gesag, en beteken ook enige voorwaardes wat met die grondgebruik verband hou;

"grondgebruikaansoek" 'n aansoek by 'n munisipaliteit beoog in Hoofstuk IV;

"grondgebruikbeplanning" ruimtelike beplanning en ontwikkelingsbestuur;

"grondontwikkeling" die oprig van geboue of strukture op grond, of die verandering van aanwending van grond, met inbegrip van dorpstigting, die onderverdeling of konsolidering van grond of enige afwyking van die toegelate grondgebruik of aanwending ingevolge 'n toepaslike soneringskema;

"grondontwikkelingsaansoek" 'n aansoek by die Departementshoof beoog in Hoofstuk V;

"Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996;

"hersonering" 'n wysiging beoog in artikel 35 van 'n soneringskema ten einde 'n verandering van sonering teweeg te bring met betrekking tot 'n bepaalde gedeelte

grond na ’n ander sonering waarvoor daar in die soneringskema voorsiening gemaak word;

“hierdie Wet” ook die regulasies kragtens hierdie Wet gemaak;

“ingenieursdiens” ’n stelsel vir die verskaffing van water, riolering, elektrisiteit, munisipale paaie, stormwaterdreinering en gas, en vir die insameling en verwydering van vaste afval, benodig vir die doel van grondontwikkeling;

“interne ingenieursdiens” ’n ingenieursdiens wat deur ’n munisipaliteit of ’n diensverskaffer besit en bedryf word binne die grense van ’n grondgebied bedoel in ’n grondgebruikaansoek en wat nodig is vir die aanwending en ontwikkeling van die grond;

“Komitee” die Beplanningsadvieskomitee wat kragtens artikel 62 ingestel kan word;

“kulturele betekenis” kulturele betekenis soos omskryf in artikel 2 van die Wet op Nasionale Erfenishulpbronne, 1999 (Wet 25 van 1999);

“Landmeter-generaal” die Landmeter-generaal van die Kantoor van die Landmeter-generaal van die Provinsie soos beoog in die Grondopmetingswet, 1997;

“metropolitaanse munisipaliteit” ’n metropolitaanse munisipaliteit soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998;

“munisipale bestuurder” ’n munisipale bestuurder soos omskryf in artikel 1 van die Munisipale Stelselswet;

“munisipale gebied” die regsgebied van ’n munisipaliteit wat ingevolge die Wet op Plaaslike Regering: Munisipale Afbakening, 1998 (Wet 27 van 1998), bepaal word;

“munisipale ruimtelike ontwikkelingsraamwerk” ’n munisipale ruimtelike ontwikkelingsraamwerk beoog in artikel 10;

“Munisipale Stelselswet” die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000);

“munisipaliteit” ’n munisipaliteit soos omskryf in artikel 2 van die Munisipale Stelselswet, en—

(a) beteken ook ’n munisipale departement, die munisipale raad, die munisipale bestuurder of ’n besluitnemingsgesag van die munisipaliteit, na gelang van die konteks;

(b) met betrekking tot ’n soneringskema of ’n grondgebruikaansoek, verwys dit na die plaaslike munisipaliteit of die metropolitaanse munisipaliteit van die munisipale gebied waarin die betrokke grond geleë is; en

(c) met betrekking tot enige ander munisipale werksaamheid of bevoegdheid, verwys dit na die metropolitaanse munisipaliteit, die plaaslike munisipaliteit of die distriksmunisipaliteit, na gelang van die geval, wat die werksaamheid of bevoegdheid het ooreenkomstig die verdeling van werksaamhede en bevoegdhede ingevolge die Wet op Plaaslike Regering: Munisipale Strukture, 1998;

“omgewing” omgewing soos omskryf in artikel 1 van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998);

“onderverdeling”, met betrekking tot grond, die verdeling van ’n grondeenheid in meer grondeenhede, en beteken ook enige fisiese aktiwiteit op die grond om die grond vir onderverdeling voor te berei, maar beteken nie ook die voorbereiding van ’n onderverdelingsplan nie;

“onderverdelingsplan” die plan beoog in artikel 36(3)*(b)*;

“ontwikkelingsbestuur” die bestuur van grondontwikkeling deur middel van die maatreëls waarvoor daar in Hoofstukke IV en V, en in Hoofstukke VI tot IX vir sover dit op Hoofstukke IV en V van toepassing is, voorsiening gemaak word;

“ontwikkelingsparameter” ’n bepaling of beperking in ’n soneringskema wat die toelaatbare omvang van die grondgebruik ingevolge ’n sonering uiteensit;

“openbare plek” enige oop of omheinde plek, park, straat, pad of deurgang of ander soortgelyke grondgebied aangetoon op ’n algemene plan of diagram wat vir gebruik deur die algemene publiek is en besit word deur, of waarvan die eienaarskap vestig in, ’n munisipaliteit, en beteken ook ’n openbare oop ruimte en ’n serwituut vir enige soortgelyke doel ten gunste van die algemene publiek;

“Ordonnansie” die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985);

“persoon” enige natuurlike of regspersoon, met inbegrip van ’n staatsorgaan;

“plaaslike munisipaliteit” ’n plaaslike munisipaliteit soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998;
“provinsiale” van of deur die Provinsiale Regering;
“Provinsiale Minister” die Provinsiale Minister verantwoordelik vir grondgebruikbeplanning;
“Provinsiale Regering” die provinsiale regering van die Provinsie;
“provinsiale ruimtelike ontwikkelingsraamwerk” ’n provinsiale ruimtelike ontwikkelingsraamwerk beoog in artikel 4;
“provinsiale streeks- ruimtelike ontwikkelingsraamwerk” ’n provinsiale streeks- ruimtelike ontwikkelingsraamwerk beoog in artikel 7;
“Provinsie” die Provinsie Wes-Kaap;
“register” ’n register van ’n soneringskema beoog in artikel 24*(c)*;
“Registrasie van Aktes Wet” die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937);
“Registrateur van Aktes” die Registrateur van Aktes van die Provinsie beoog in die Registrasie van Aktes Wet;
“ruimtelike beplanning” die beplanning vir grondgebruik deur middel van die maatreëls waarvoor daar in Hoofstuk III, en Hoofstukke VI tot IX vir sover dit op Hoofstuk III van toepassing is, voorsiening gemaak word, en beteken ook die ruimtelike vergestalting daarvan;
“ruimtelike ontwikkelingsraamwerk” ’n provinsiale ruimtelike ontwikkelingsraamwerk, ’n provinsiale streeks- ruimtelike ontwikkelingsraamwerk of ’n munisipale ruimtelike ontwikkelingsraamwerk;
“serwituut” ’n serwituut geregistreer teen ’n titelakte van grond;
“soneer”, met betrekking tot grond, om die grond aan te wys vir ’n bepaalde sonering;
“sonering” ’n grondgebruikkategorie wat die aanwending en ontwikkeling van grond reguleer en—
(a) die doeleindes waarvoor grond aangewend kan word; en
(b) die ontwikkelingsparameters wat op daardie grondgebruikkategorie van toepassing is,

uiteensit soos bepaal deur die toepaslike soneringskema;
“soneringskaart” ’n kaart van ’n soneringskema beoog in artikel 24*(d)*;
“soneringskema” die instrumente bedoel in artikels 22 tot 24, of artikel 33, om grond te soneer, te reguleer en te beheer;
“staatsorgaan” ’n staatsorgaan soos omskryf in artikel 239 van die Grondwet;
“streek” ’n geografiese gebied wat bestaan uit die munisipale gebiede, of gedeeltes van die munisipale gebiede, van—
(a) meer as een plaaslike munisipaliteit; of
(b) ’n metropolitaanse munisipaliteit en een of meer aangrensende plaaslike munisipaliteite;

“struktuurplan” ’n struktuurplan wat van krag is ingevolge artikel 16(1)*(b)* saamgelees met artikel 16(3) en (4);
“titelakte” enige akte geregistreer in ’n akteskantoor wat die eienaarskap van grond of ’n saaklike reg in grond aanteken;
“vergunningsgebruik” ’n grondgebruik toegelaat ingevolge ’n bepaalde sonering met die goedkeuring van ’n munisipaliteit;
“voldoen”, met betrekking tot ’n ruimtelike ontwikkelingsraamwerk, ’n grondgebruikaansoek of ’n grondontwikkelingsaansoek, dieselfde as die betekenis uiteengesit in artikel 19(1);
“volhoubare ontwikkeling” volhoubare ontwikkeling soos omskryf in artikel 1 van die Wet op Nasionale Omgewingsbestuur, 1998;
“voorskryf” voorskryf by regulasie kragtens hierdie Wet;
“Wet op Landelike Gebiede” die Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987 (Wet 9 van 1987);
“Wet op Minder Formele Dorpstigting” die Wet op Minder Formele Dorpstigting, 1991 (Wet 113 van 1991);
“1984-Regulasies” die regulasies gemaak kragtens artikel 66(1) van die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), gepubliseer by Goewermentskennisgewing R.1897/1986 in *Staatskoerant* 10431 van 12 September 1986 en Provinsiale Kennisgewing 733/1989 in *Provinsiale Koerant* 4606 van 22 September 1989, ten opsigte van alle dorpsbeplanningskemas wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan.

HOOFSTUK II

WERKSAAMHEDE VAN MUNISIPALITEITE EN PROVINSIALE REGERING

Werksaamhede van munisipaliteite

2. (1) Munisipaliteite is verantwoordelik vir grondgebruikbeplanning in hul onderskeie munisipale gebiede en binne hul regsbevoegdheid.

(2) 'n Munisipaliteit moet minstens die volgende reguleer:

(a) die ontwikkeling, aanneming, wysiging en hersiening van 'n soneringskema vir die munisipale gebied;
(b) die prosedures ingevolge waarvan die munisipaliteit grondgebruikaansoeke ontvang, oorweeg en daaroor besluit;
(c) die prosedures ingevolge waarvan die munisipaliteit openbare deelname aan sy oorweging van grondgebruikaansoeke fasiliteer;
(d) die maatstawwe om oor grondgebruikaansoeke te besluit;
(e) die oplegging van voorwaardes van goedkeuring vir grondgebruikaansoeke;
(f) die prosedures van toepassing nadat 'n grondgebruikaansoek goedgekeur is; en
(g) die afdwinging deur die munisipaliteit van sy verordeninge en besluite ten opsigte van grondgebruikbeplanning.

(3) 'n Munisipaliteit moet die werksaamhede bedoel in hierdie artikel ooreenkomstig hierdie Wet verrig.

Werksaamhede van Provinsiale Regering

3. (1) Die Provinsiale Kabinet moet 'n provinsiale ruimtelike ontwikkelingsraamwerk ooreenkomstig artikels 4 en 5 aanneem en hersien en kan dit ooreenkomstig daardie artikels wysig.

(2) Die Provinsiale Minister kan 'n provinsiale streeks- ruimtelike ontwikkelingsraamwerk in die omstandighede beoog in artikel 7 aanneem, wysig of hersien.

(3) Die Departementshoof moet oor grondontwikkelingsaansoeke besluit en die Provinsiale Minister moet oor appèlle ten opsigte daarvan besluit.

(4) Die Provinsiale Minister moet die voldoening aan die beginsels bedoel in Hoofstuk VI moniteer.

(5) Die Provinsiale Minister moet provinsiale grondgebruikbeplanning en die impak van een of meer van die volgende aangeleenthede op provinsiale grondgebruikbeplanning moniteer:

(a) rampbestuur;
(b) behuising;
(c) streeksbeplanning en -ontwikkeling;
(d) stedelike en landelike ontwikkeling;
(e) provinsiale toerisme;
(f) beskerming van biodiversiteit, en erfenis- en landbouhulpbronne;
(g) hoof- openbare-infrastruktuurfasiliteite en -dienste;
(h) water- en energiehulpbronne;
(i) aanpassing by klimaatsverandering en die versagting van die impak van klimaatsverandering;
(j) hernubare-energieproduksie en energiebewaring; of
(k) ekonomiese ontwikkeling.

(6) Die Provinsiale Minister kan die volgende moniteer:

(a) die finansiële en mensehulpbronvermoë van munisipaliteite om hul werksaamhede ten opsigte van grondgebruikbeplanning te verrig;
(b) die doeltreffendheid van die verrigting deur munisipaliteite van hul werksaamhede ten opsigte van grondgebruikbeplanning;
(c) die impak van munisipale grondgebruikbeplanning op—
  (i) die aangeleenthede bedoel in subartikel (5);
  (ii) die implementering en ooreenstemming van die planne en strategieë van die Provinsiale Regering en ander staatsorgane;
  (iii) bestaande munisipaledienste-infrastruktuur en munisipale padnetwerke;
(d) die bestaande en toekomstige beskikbaarheid van—
  (i) ingenieursdienste om munisipale grondgebruikbeplanning te implementeer;

(ii) gemeenskaps- en openbare fasiliteite om munisipale grondgebruikbeplanning te ondersteun.

(7) Die Provinsiale Minister moet munisipaliteite ondersteun om hul werksaamhede ten opsigte van grondgebruikbeplanning te verrig deur middel van geskikte maatreëls, met inbegrip van een of meer van die volgende:

(a) die uitreiking van riglyne oor die implementering van hierdie Wet en ander tersaaklike wetgewing;

(b) die uitreiking van gestandaardiseerde modelle en konsepdokumente van munisipale beleid, verordeninge, besluite en vorms;

(c) die verskaffing van inligting en leiding aan munisipaliteite vir hul besluitneming ten opsigte van grondgebruikbeplanning;

(d) die verskaffing van tegniese bystand, opleiding en ondersteuning aan munisipaliteite;

(e) die sekondering van provinsiale werknemers na 'n munisipaliteit in oorleg met munisipaliteite wat geraak word; of

(f) die verskaffing van enige ander ondersteuningsmaatreël.

(8) Die Provinsiale Minister kan—

(a) regulasies maak; of

(b) riglyne, minimum vereistes, beginsels en norme en standaarde uitreik,

wat bestaanbaar is met hierdie Wet ten einde die implementering van subartikels (4) tot (6) te fasiliteer en om toe te sien dat munisipaliteite hul werksaamhede ten opsigte van grondgebruikbeplanning doeltreffend verrig.

HOOFSTUK III

RUIMTELIKE BEPLANNING

Deel 1:

Provinsiale ruimtelike ontwikkelingsraamwerk

Provinsiale ruimtelike ontwikkelingsraamwerk

4. (1) Die Premier moet ingevolge artikel 5 'n provinsiale ruimtelike ontwikkelingsraamwerk vir aanneming deur die Provinsiale Kabinet saamstel.

(2) Die doel van die provinsiale ruimtelike ontwikkelingsraamwerk is om—

(a) voorsiening te maak vir die koördinering, integrering en ooreenstemming van provinsiale ontwikkelingsbeleid ten opsigte van die provinsiale funksionele gebiede gelys in Bylaes 4 en 5 by die Grondwet en die grondgebruikimplikasies daarvan;

(b) gewenste grondgebruik aan te dui en voorspelbaarheid in die aanwending van grond te bevorder; en

(c) koördinering, integrering, en ooreenstemming van nasionale, provinsiale en munisipale grondgebruikbeplanningsbeleid te fasiliteer.

(3) Die provinsiale ruimtelike ontwikkelingsraamwerk moet minstens die volgende bevat:

(a) 'n ruimtelike visie vir die geïntegreerde ontwikkeling van die Provinsie;

(b) 'n evaluering van—

(i) die bestaande vlakke van ontwikkeling in die Provinsie; en

(ii) die uitdagings van provinsiale grondgebruikbeplanning met betrekking tot ander provinsiale funksionele gebiede wat in Bylaes 4 en 5 by die Grondwet gelys word;

(c) provinsiale prioriteite, doelwitte en strategieë wat in die besonder handel met—

(i) voldoening aan beginsels vir grondgebruikbeplanning;

(ii) biodiversiteit, ekologie, provinsiale toerisme, erfenis- en landbouhulpbronne, sosio-ekonomiese ontwikkeling en doelmatige gebruik van hulpbronne; en

(iii) aanpassing by klimaatsverandering, versagting van die impak van klimaatsverandering, hernubare-energieproduksie en energiebewaring; en

(d) 'n beskrywing van die proses wat gevolg is in die samestelling van die provinsiale ruimtelike ontwikkelingsraamwerk.

Samestelling, aanneming, wysiging of hersiening van provinsiale ruimtelike ontwikkelingsraamwerk

5. (1) Die Premier moet ’n *ad hoc*-interregeringsloodskomitee aanstel om ’n provinsiale ruimtelike ontwikkelingsraamwerk saam te stel of te hersien vir goedkeuring deur die Provinsiale Kabinet en kan ’n *ad hoc*-interregeringsloodskomitee aanstel om ’n wysiging van ’n provinsiale ruimtelike ontwikkelingsraamwerk saam te stel wat nie uit ’n hersiening daarvan voortspruit nie.

(2) Die komitee moet bestaan uit minstens—

(a) persone met kennis van, en ondervinding in, grondgebruikbeplanning;

(b) persone met kennis van, en ondervinding in, omgewingsbestuur;

(c) persone wat geregistreerde beplanners is; en

(d) verteenwoordigers, soos voorgeskryf, van plaaslike, metropolitaanse en distriksmunisipaliteite, die Provinsiale Regering en tersaaklike staatsorgane.

(3) Die Provinsiale Minister moet prosedures voorskryf vir—

(a) die benoeming, aanstelling en aanstellingstermyne van lede van die komitee, en die funksionering van die komitee;

(b) die samestelling, aanneming, wysiging en hersiening van ’n provinsiale ruimtelike ontwikkelingsraamwerk; en

(c) interregerings- en openbare oorlegpleging ten opsigte van die aanneming, wysiging en hersiening van ’n provinsiale ruimtelike ontwikkelingsraamwerk.

(4) Die Provinsiale Minister kan ’n afwyking magtig, of ’n vrystelling verleen, van die prosedures bedoel in subartikel (3) ten einde die Provinsiale Kabinet in staat te stel om ’n konsep- provinsiale ruimtelike ontwikkelingsraamwerk wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan, aan te neem.

(5) Die provinsiale ruimtelike ontwikkelingsraamwerk moet minstens elke 10 jaar hersien word.

Inisiëring van wysiging van provinsiale ruimtelike ontwikkelingsraamwerk

6. Die Departementshoof kan, uit eie beweging of op versoek, die wysiging van die provinsiale ruimtelike ontwikkelingsraamwerk vir goedkeuring deur die Provinsiale Kabinet ooreenkomstig die prosedures beoog in artikel 5(3)*(b)* en *(c)* inisieer.

Deel 2:

Provinsiale streeks- ruimtelike ontwikkelingsraamwerke

Provinsiale streeks- ruimtelike ontwikkelingsraamwerke

7. (1) Die Provinsiale Minister kan ’n provinsiale streeks- ruimtelike ontwikkelingsraamwerk vir ’n streek aanneem na oorlegpleging met die tersaaklike munisipaliteite en enige ander tersaaklike gesag in die streek.

(2) Die doel van ’n provinsiale streeks- ruimtelike ontwikkelingsraamwerk is om, in ’n spesifieke streek—

(a) ’n ruimtelike visie te verskaf wat ’n ewewig tussen ekonomiese, maatskaplike en omgewingsoorwegings nastreef;

(b) rasionele en voorspelbare grondgebruikbeplanning te bevorder;

(c) die koördinering, integrering en ooreenstemming van provinsiale en munisipale beleid ten opsigte van grondgebruikbeplanning te fasiliteer; en

(d) aandag te gee aan spesifieke ekonomiese, maatskaplike, natuurlike of unieke eienskappe.

(3) ’n Provinsiale streeks- ruimtelike ontwikkelingsraamwerk moet, met betrekking tot die streek waarop dit van toepassing is, minstens die aangeleenthede bedoel in artikel 4(3)*(a)* tot *(d)*, saamgelees met die nodige veranderinge, bevat.

(4) ’n Provinsiale streeks- ruimtelike ontwikkelingsraamwerk moet met die provinsiale ruimtelike ontwikkelingsraamwerk bestaanbaar wees.

Samestelling, aanneming, wysiging, hersiening of intrekking van provinsiale streeks- ruimtelike ontwikkelingsraamwerke

8. (1) Artikel 5(1) tot (3), saamgelees met die nodige veranderinge, is van toepassing op die samestelling, aanneming, wysiging, hersiening of intrekking van ’n provinsiale streeks- ruimtelike ontwikkelingsraamwerk.

(2) Vir die doeleindes van subartikel (1), moet ’n verwysing na die Premier of die Provinsiale Kabinet in artikel 5(1) uitgelê word as ’n verwysing na die Provinsiale Minister.

(3) ’n Provinsiale streeks- ruimtelike ontwikkelingsraamwerk moet minstens elke 10 jaar hersien word.

Inisiëring van wysiging of intrekking van provinsiale streeks- ruimtelike ontwikkelingsraamwerke

9. Die Departementshoof kan, uit eie beweging of op versoek, die wysiging of intrekking van ’n provinsiale streeks- ruimtelike ontwikkelingsraamwerk inisieer vir goedkeuring deur die Provinsiale Minister ooreenkomstig die prosedures beoog in artikel 8(1).

Deel 3:

Munisipale ruimtelike ontwikkelingsraamwerke

Munisipale ruimtelike ontwikkelingsraamwerke

10. (1) ’n Munisipaliteit moet aan artikel 11 voldoen wanneer hy sy munisipale ruimtelike ontwikkelingsraamwerk ingevolge die Munisipale Stelselswet aanneem of wysig.

(2) ’n Munisipale ruimtelike ontwikkelingsraamwerk moet minstens—

(a) aan ander toepaslike wetgewing voldoen;

(b) voorspelbaarheid in die aanwending van grond bevorder;

(c) aandag gee aan ontwikkelingsprioriteite;

(d) waar tersaaklik, voorsiening maak vir spesifieke ruimtelike fokusgebiede, met inbegrip van dorpe, ander nodusse, sensitiewe gebiede of gebiede wat spesifieke ontwikkelingsdruk ondervind; en

(e) bestaan uit ’n verslag en kaarte wat die hele munisipale gebied dek en munisipale beplanning en die volgende vormgewende elemente weergee:

(i) vervoerroetes;

(ii) oopruimtestelsels en ekologiese stroke;

(iii) voorgestelde groot projekte van staatsorgane met wesenlike ruimtelike implikasies;

(iv) die buitenste grense van laterale uitbreiding; en

(v) die verdigting van stedelike gebiede.

(3) ’n Munisipale ruimtelike ontwikkelingsraamwerk moet in ooreenstemming wees met die provinsiale ontwikkelingsplanne en -strategieë en moet daardie ontwikkelingsplanne en -strategieë aanvul deur ’n kaart in te sluit wat minstens die volgende in die munisipale gebied identifiseer:

(a) die provinsiale pad- en verkeersnetwerk;

(b) die provinsiale openbare vervoernetwerk;

(c) bestaande en beplande provinsiale gesondheids- en onderwysfasiliteite;

(d) erfenis-, landbou- en toerismehulpbronne van provinsiale belang; en

(e) waar tersaaklik, gebiede van erkende provinsiale ekologiese waarde, met inbegrip van—

(i) natuurbewaringsgebiede;

(ii) gebiede van hoë biodiversiteitswaarde;

(iii) gebiede wat toegewyde grondbewaring vereis;

(iv) gebiede wat ’n toegewyde besoedelingsbeheerregime vereis; en

(v) gebiede wat toegewyde strategieë vereis om by klimaatsverandering aan te pas en die impak van klimaatsverandering te versag.

Aanneming of wysiging van munisipale ruimtelike ontwikkelingsraamwerke

11. Die proses wat ’n munisipaliteit ingevolge artikel 28 van die Munisipale Stelselswet aanneem in verband met die aanneming of wysiging van sy munisipale ruimtelike ontwikkelingsraamwerk moet voorsiening maak vir—

(a) die instelling van ’n interregeringsloodskomitee om ’n konsep- munisipale ruimtelike ontwikkelingsraamwerk of ’n konsepwysiging van ’n munisipale ruimtelike ontwikkelingsraamwerk saam te stel; of

(b) ’n prosedure wat aan artikel 13 voldoen.

Interregeringsloodskomitee

12. (1) Indien ’n munisipaliteit ’n interregeringsloodskomitee bedoel in artikel 11*(a)* instel, moet die komitee bestaan uit minstens—

(a) die munisipale bestuurder of ’n munisipale werknemer aangewys deur die munisipale bestuurder; en

(b) verteenwoordigers van—

(i) die munisipaliteit, benoem deur die munisipale bestuurder;

(ii) die Departement, benoem deur die Departementshoof; en

(iii) die provinsiale departement verantwoordelik vir omgewingsake, benoem deur die hoof van daardie departement.

(2) Die lede van die interregeringsloodskomitee moet persone wees wat aangestel is op grond van hul kwalifikasies en ondervinding in, en kennis van, grondgebruikbeplanning of omgewingsbestuur.

(3) Die interregeringsloodskomitee—

(a) se voorsitter is die munisipale bestuurder of die munisipale werknemer aangewys deur die munisipale bestuurder ingevolge subartikel (1)*(a)*, na gelang van die geval;

(b) bepaal sy eie prosedures, wat vir minstens ’n kworum en besluitneming voorsiening moet maak; en

(c) kan subkomitees aanstel en take aan sodanige subkomitees opdra.

(4) Die lede beoog in subartikel (1)*(b)*(ii) en (iii) moet skriftelike provinsiale kommentaar op ’n konsep- munisipale ruimtelike ontwikkelingsraamwerk of ’n konsepwysiging van ’n munisipale ruimtelike ontwikkelingsraamwerk gedurende die samestellingsproses daarvan aan die munisipaliteit lewer.

Prosedure sonder interregeringsloodskomitee

13. (1) Indien ’n interregeringsloodskomitee beoog in artikel 12 nie ingestel word nie—

(a) moet die munisipaliteit ’n konsep- munisipale ruimtelike ontwikkelingsraamwerk of ’n konsepwysiging van ’n munisipale ruimtelike ontwikkelingsraamwerk vir skriftelike kommentaar by die Provinsiale Minister indien; en

(b) mag die munisipaliteit nie sy munisipale ruimtelike ontwikkelingsraamwerk aanneem of ’n wysiging daarvan goedkeur totdat—

(i) die munisipaliteit die kommentaar bedoel in subartikel (2) ontvang en oorweeg het nie; of

(ii) die tydperk bedoel in subartikel (2) geëindig het en indien geen kommentaar gedurende daardie tydperk van die Provinsiale Minister ontvang is nie.

(2) Die Provinsiale Minister moet, binne 60 dae van ontvangs van ’n konsepmunisipale ruimtelike ontwikkelingsraamwerk of konsepwysiging van ’n munisipale ruimtelike ontwikkelingsraamwerk ingevolge subartikel (1)*(a)*, skriftelike kommentaar daarop aan die munisipaliteit lewer.

(3) Die tydperk bedoel in subartikel (2) kan met die instemming van die munisipaliteit verleng word.

Indiening van munisipale ruimtelike ontwikkelingsraamwerke

14. (1) ’n Munisipale bestuurder moet, binne die tydperk beoog in artikel 32(1) van die Munisipale Stelselswet, die volgende by die Provinsiale Minister indien:

(a) 'n skriftelike kennisgewing van die besluit om 'n munisipale ruimtelike ontwikkelingsraamwerk aan te neem of te wysig, tesame met die redes vir die besluit;

(b) die aangenome of gewysigde munisipale ruimtelike ontwikkelingsraamwerk; en

(c) 'n verslag wat die terugvoering van die munisipaliteit op die kommentaar wat ingevolge artikel 12(4) of 13(2) gelewer is, uiteensit.

Bestaanbaarheid tussen munisipale ruimtelike ontwikkelingsraamwerke

15. (1) Munisipale ruimtelike ontwikkelingsraamwerke van plaaslike munisipaliteite en die tersaaklike distriksmunisipaliteit moet met mekaar bestaanbaar wees.

(2) Die prosedures wat ingevolge artikel 27 van die Munisipale Stelselswet deur 'n distriksmunisipaliteit aangeneem word, moet 'n proses insluit vir beslegting van geskille rakende bestaanbaarheid tussen onderskeidelik munisipale ruimtelike ontwikkelingsraamwerke wat deur die plaaslike munisipaliteite in sy distriksmunisipale gebied aangeneem word en sy munisipale ruimtelike ontwikkelingsraamwerk.

(3) Die proses vir geskilbeslegting moet 'n prosedure bevat waarvolgens die Provinsiale Minister van 'n geskil in kennis gestel word.

Deel 4:

Oorgangs- en algemene reëlings

Struktuurplanne

16. (1) Ondanks die herroeping van die Ordonnansie by artikel 77—

(a) bly die struktuurplan wat goedgekeur is ingevolge artikel 4(6) van die Ordonnansie en by Provinsiale Kennisgewing 236/2009 in *Provinsiale Koerant* 6641 van 10 Julie 2009 gepubliseer is of enige wysiging of vervanging daarvan voor die inwerkingtreding van hierdie Wet, van krag en word dit geag as die provinsiale ruimtelike ontwikkelingsraamwerk wat ingevolge artikel 4(1) aangeneem is; en

(b) behoudens subartikel (2), bly enige ander struktuurplan wat ingevolge artikel 4(6) of 4(10) van die Ordonnansie goedgekeur is en onmiddellik voor die inwerkingtreding van hierdie Wet bestaan, van krag.

(2) Ondanks subartikel (1)*(b)*, word die Algemene Struktuurplan bedoel in Omsendbrief LDC 9 van 8 Desember 1988, goedgekeur ingevolge artikel 4(6) van die Ordonnansie, en alle wysigings daarvan, ingetrek by die inwerkingtreding van hierdie Wet.

(3) 'n Struktuurplan bedoel in subartikel (1)*(b)* verval twee jaar na die datum van inwerkingtreding van hierdie Wet.

(4) 'n Munisipaliteit kan, voordat 'n struktuurplan verval, by kennisgewing in die *Provinsiale Koerant* die toepassing daarvan in sy munisipale gebied intrek.

Voortsetting van ruimtelike ontwikkelingsraamwerke

17. Indien grond wat in die munisipale gebied van 'n munisipaliteit geleë is by die munisipale gebied van 'n ander munisipaliteit ingesluit word, bly 'n munisipale ruimtelike ontwikkelingsraamwerk ten opsigte van daardie grond van toepassing op die munisipale gebied waarop dit van toepassing was voor die insluiting totdat dit ooreenkomstig hierdie Hoofstuk deur die ontvangende munisipaliteit gewysig is.

Publisering van ruimtelike ontwikkelingsraamwerke

18. (1) 'n Munisipaliteit moet, na die aanneming of wysiging van sy munisipale ruimtelike ontwikkelingsraamwerk, 'n kennisgewing van sy besluit in die *Provinsiale Koerant* publiseer.

(2) Indien 'n munisipale ruimtelike ontwikkelingsraamwerk gewysig word as gevolg van 'n besluit van 'n *ad hoc*-komitee beoog in artikel 33 van die Munisipale Stelselswet, moet 'n kennisgewing van die wysiging ooreenkomstig subartikel (1) gepubliseer word.

(3) Die Provinsiale Minister moet, binne 21 dae van die aanneming of wysiging van 'n provinsiale ruimtelike ontwikkelingsraamwerk of 'n provinsiale streeks- ruimtelike

ontwikkelingsraamwerk, 'n kennisgewing van die besluit in die *Provinsiale Koerant* publiseer.

(4) 'n Provinsiale ruimtelike ontwikkelingsraamwerk, 'n provinsiale streeks-ruimtelike ontwikkelingsraamwerk of 'n wysiging van enige van die twee tree in werking op die datum van publikasie van die kennisgewing beoog in subartikel (3).

Voldoening aan, of bestaanbaarheid met, en verskil van, ruimtelike ontwikkelings-raamwerke of struktuurplanne

19. (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 ontwikkelings-raamwerk of struktuurplan.

(2) Indien 'n ruimtelike ontwikkelingsraamwerk of struktuurplan 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 die doel van die tersaaklike aanwysing in die ruimtelike ontwikkelingsraamwerk of struktuurplan nie, word die voorgestelde aanwending of ontwikkeling geag bestaanbaar te wees met daardie ruimtelike ontwikkelingsraamwerk of struktuurplan.

(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 ontwikkelings-raamwerk of struktuurplan en nie daarmee bestaanbaar is nie, verskil die voorgestelde aanwending of ontwikkeling van daardie ruimtelike ontwikkelingsraamwerk of struktuurplan.

Rekords van ruimtelike ontwikkelingsraamwerke

20. (1) Die tersaaklike bevoegde gesag moet sy ruimtelike ontwikkelingsraamwerk bygewerk hou en die bygewerkte ruimtelike ontwikkelingsraamwerk vir die publiek toeganklik maak.

(2) 'n Bygewerkte ruimtelike ontwikkelingsraamwerk moet 'n rekord aantoon van—

(a) in die geval van 'n provinsiale ruimtelike ontwikkelingsraamwerk of 'n provinsiale streeks- ruimtelike ontwikkelingsraamwerk, goedgekeurde grondontwikkelingsaansoeke wat van daardie ruimtelike ontwikkelings-raamwerk verskil soos beoog in artikel 19(3);

(b) in die geval van 'n munisipale ruimtelike ontwikkelingsraamwerk, goedgekeurde grondgebruikaansoeke wat van die munisipale ruimtelike ontwikkelingsraamwerk verskil soos beoog in artikel 19(3); en

(c) wysigings van die ruimtelike ontwikkelingsraamwerk.

Integrering van ander planne, beleid of raamwerke

21. Wanneer daar van die Provinsiale Regering of 'n munisipaliteit vereis word om 'n plan, beleid of raamwerk wat grondgebruikbeplanning raak, goed te keur ingevolge ander wetgewing, kan die Provinsiale Minister of munisipaliteit daardie plan, beleid of raamwerk, of 'n wysiging daarvan, met 'n tersaaklike ruimtelike ontwikkelings-raamwerk integreer indien—

(a) daar aan al die toepaslike wetgewing voldoen is; en

(b) die ruimtelike ontwikkelingsraamwerk die tersaaklike wetgewing ingevolge waarvan dit goedgekeur is en enige gesag wat dit goedgekeur het, vermeld.

HOOFSTUK IV

MUNISIPALE ONTWIKKELINGSBESTUUR

Deel 1:

Soneringskemas

Soneringskema vir munisipale gebied

22. (1) Elke plaaslike munisipaliteit en metropolitaanse munisipaliteit moet 'n enkele soneringskema, wat vir minstens die aangeleenthede bedoel in artikel 24 voorsiening maak, vir sy hele munisipale gebied aanneem.

(2) Wanneer 'n munisipaliteit sy soneringskema aanneem, moet die munisipaliteit aan hierdie Wet en die verdere minimum vereistes soos vir soneringskemas voorgeskryf kan word, voldoen.

(3) 'n Munisipaliteit moet sy soneringskema minstens elke 10 jaar hersien.

(4) Wysigings wat uit 'n hersiening van 'n soneringskema voortspruit, moet ooreenkomstig artikel 25 goedgekeur word.

Doel van soneringskemas

23. Die doel van 'n soneringskema is om minstens—

(a) vir ordelike ontwikkeling en die welsyn van die gemeenskap voorsiening te maak; en

(b) gebruiksregte en ontwikkelingsparameters te bepaal,

met behoorlike oorweging van die beginsels bedoel in Hoofstuk VI.

Inhoud van soneringskemas

24. 'n Soneringskema moet voorsiening maak vir minstens—

(a) die sonering van grond;

(b) die inwerkingtreding van nuwe sonerings indien daar in die soneringskema vir nuwe sonerings voorsiening gemaak word;

(c) die byhou van 'n register om afwykings, afwykende grondgebruike beoog in artikel 29(1)*(c)*(i) en vergunningsgebruike aan te teken; en

(d) die goedkeuring van 'n soneringskaart om die volgende aan te teken:

(i) die sonering van grondeenhede en verwysings na inskrywings in die register; en

(ii) hersonerings en wysigings aan verwysings na die register, waar 'n grondgebruikbeplanningaansoek goedgekeur word deur die munisipaliteit of waar 'n gebruiksreg verval het.

Samestelling of wysiging van soneringskemas

25. 'n Munisipaliteit moet sy soneringskema saamstel of wysig deur—

(a) 'n interregeringsloodskomitee in te stel om 'n konsep- soneringskema of 'n konsepwysiging van 'n soneringskema saam te stel; of

(b) die prosedure uiteengesit in artikel 27 te volg.

Interregeringsloodskomitee

26. (1) Indien 'n munisipaliteit 'n interregeringsloodskomitee bedoel in artikel 25*(a)* instel, moet die komitee bestaan uit minstens—

(a) die munisipale bestuurder of 'n munisipale werknemer aangewys deur die munisipale bestuurder; en

(b) verteenwoordigers van—

(i) die munisipaliteit, benoem deur die munisipale bestuurder;

(ii) die tersaaklike distriksmunisipaliteit, benoem deur sy munisipale bestuurder; en

(iii) die Departement, benoem deur die Departementshoof.

(2) Die lede van die interregeringsloodskomitee moet persone wees wat aangestel is op grond van hul kwalifikasies en ondervinding in, en kennis van, grondgebruikbeplanning.

(3) Die interregeringsloodskomitee—

(a) se voorsitter is die munisipale bestuurder of die munisipale werknemer wat deur die munisipale bestuurder ingevolge subartikel (1)*(a)* aangewys word, na gelang van die geval;

(b) bepaal sy eie prosedures, wat vir minstens 'n kworum en besluitneming voorsiening moet maak; en

(c) kan subkomitees aanstel en take aan sodanige subkomitees opdra.

(4) Die lede beoog in subartikel (1)*(b)*(iii) moet skriftelike provinsiale kommentaar op 'n konsep- soneringskema of 'n konsepwysiging van 'n soneringskema gedurende die samestellingsproses daarvan aan die munisipaliteit lewer.

Prosedure sonder interregeringsloodskomitee

27. (1) Indien 'n interregeringsloodskomitee beoog in artikel 26 nie ingestel word nie—

(a) moet die munisipaliteit 'n konsep- soneringskema of konsepwysiging van 'n soneringskema, uitgesluit die register en soneringskaart, vir skriftelike kommentaar by die Provinsiale Minister indien; en

(b) mag die munisipaliteit nie sy soneringskema aanneem of 'n wysiging daarvan goedkeur totdat—

(i) die munisipaliteit die kommentaar bedoel in subartikel (2) ontvang en oorweeg het nie; of

(ii) die tydperk bedoel in subartikel (2) geëindig het en indien geen kommentaar gedurende daardie tydperk van die Provinsiale Minister ontvang is nie.

(2) Die Provinsiale Minister moet, binne 60 dae van ontvangs van 'n konsep-soneringskema of konsepwysiging van 'n soneringskema ingevolge subartikel (1)*(a)*, skriftelike kommentaar daarop aan die munisipaliteit lewer.

(3) Die tydperk bedoel in subartikel (2) kan met die instemming van die munisipaliteit verleng word.

Indiening van soneringskemas

28. 'n Munisipaliteit moet, binne 30 dae van goedkeuring van 'n soneringskema of wysiging daarvan, die volgende by die Premier indien:

(a) 'n skriftelike kennisgewing van die besluit om die soneringskema aan te neem of te wysig;

(b) die aangenome of gewysigde soneringskema, uitgesluit die register of soneringskaart; en

(c) 'n verslag wat die terugvoering van die munisipaliteit op die kommentaar wat ingevolge artikel 26(4) of 27(2) gelewer is, uiteensit.

Inwerkingtreding van soneringskemas

29. (1) 'n Munisipaliteit moet vir gepaste maatreëls voorsiening maak ter regulering van—

(a) die inwerkingtreding van 'n soneringskema wat ooreenkomstig hierdie Wet goedgekeur word en van daaropvolgende hersienings en wysigings daarvan;

(b) die oorgang, ooreenkomstig artikel 34, van—

(i) 'n soneringskema wat ingevolge artikel 33 van krag is na 'n soneringskema wat ooreenkomstig hierdie Wet aangeneem word; en

(ii) 'n soneringskema wat ooreenkomstig hierdie Wet aangeneem is na daaropvolgende hersienings en wysigings daarvan; en

(c) afwykende grondgebruike, deur te bepaal dat—

(i) grond wat ingevolge 'n bestaande soneringskema wettiglik aangewend word vir 'n doel wat nie aan 'n voorgestelde soneringskema voldoen nie, voort kan gaan om vir daardie doel aangewend te word wanneer die nuwe soneringskema in werking tree; en

(ii) 'n grondgebruikaansoek gedoen moet word vir die verbouing of uitbreiding van geboue of strukture op grond bedoel in subparagraaf (i).

(2) 'n Munisipaliteit moet sy besluit om 'n soneringskaart goed te keur in die *Provinsiale Koerant* publiseer.

Toegelate aanwending van grond

30. Geen persoon mag grond aanwend of ontwikkel tensy die aanwending of grondontwikkeling toegelaat word ingevolge ’n soneringskema of ’n goedkeuring wat bestaanbaar is met hierdie Wet en toepaslike verordeninge nie.

Rekords van soneringskemas

31. Elke munisipaliteit moet sy soneringskema bygewerk hou en die bygewerkte soneringskema vir die publiek toeganklik maak.

Voortsetting van soneringskemas

32. (1) Indien grond wat in die munisipale gebied van ’n munisipaliteit geleë is by die munisipale gebied van ’n ander munisipaliteit ingesluit word, bly ’n soneringskema ten opsigte van daardie grond van krag in die munisipale gebied waarop dit van toepassing was voor die insluiting totdat dit deur die ontvangende munisipaliteit gewysig is.

Deel 2:

Bestaande dorpsbeplannings- en soneringskemas

Bestaande dorpsbeplannings- en soneringskemas

33. (1) Ondanks die herroeping van die Ordonnansie by artikel 77—

(a) bly ’n soneringskema, met inbegrip van ’n soneringskaart, register en skemaregulasies, wat onmiddellik voor die inwerkingtreding van hierdie Wet ingevolge artikel 7, 8, 8A, 9, 10 of 12 van die Ordonnansie bestaan het, van krag en is artikels 2, 7 tot 14, 39 tot 41, 46 en 47 van die Ordonnansie op daardie soneringskema van toepassing asof dit nie herroep is nie, tensy daardie bepalings onbestaanbaar is met hierdie Wet of ’n toepaslike verordening; en

(b) bly ’n gebruiksreg en ’n wettige sonering ingevolge daardie soneringskema van krag totdat dit ingevolge ’n toepaslike verordening gewysig word.

(2) Ondanks die herroeping van Provinsiale Kennisgewing 733/1989 by artikel 77—

(a) bly ’n dorpsbeplanningskema wat onmiddellik voor die inwerkingtreding van hierdie Wet ingevolge daardie kennisgewing bestaan het, van krag en is die tersaaklike bepalings van Provinsiale Kennisgewing 733/1989 en Goewermentskennisgewing R.1897/1986 van toepassing op daardie dorpsbeplanningskema asof dit nie herroep is nie, tensy daardie bepalings onbestaanbaar is met hierdie Wet of ’n toepaslike verordening; en

(b) bly ’n gebruiksreg en ’n wettige sonering ingevolge daardie dorpsbeplanningskema, van krag totdat dit ingevolge ’n toepaslike verordening gewysig word.

(3) ’n Grondgebruikaansoek wat na die inwerkingtreding van hierdie Wet ingedien is en wat betrekking het op ’n gebruiksreg wat ingevolge subartikel (1)*(b)* of (2)*(b)* van krag bly, moet ooreenkomstig hierdie Wet en ingevolge toepaslike verordeninge deur ’n munisipaliteit oorweeg en verwerk word.

(4) By die inwerkingtreding van ’n soneringskema beoog in artikel 22, verval ’n soneringskema of dorpsbeplanningskema bedoel in subartikel (1) of (2).

Deel 3:

Sonerings en ander gebruiksregte

Gebruiksregte

34. (1) ’n Munisipaliteit moet, wanneer hy ’n soneringskema ooreenkomstig hierdie Wet aanneem of by ontvangs van ’n aansoek bedoel in subartikel (5), ’n sonering of ’n geagte sonering bepaal—

(a) vir grond wat ingevolge ’n soneringskema of dorpsbeplanningskema wat kragtens artikel 33 van krag is, gesoneer is of geag word gesoneer te wees vir—

(i) staats- of ander owerheidsdoeleindes;

(ii) ’n doel of aanwysing sonder ontwikkelingsparameters; of

(iii) ’n doel waarvoor die grond nie aangewend word nie; en

(b) vir grond bedoel in artikel 8 van die Ordonnansie en wat nie geag word gesoneer te wees uit hoofde van ’n bepaling kragtens artikel 14(1) van die Ordonnansie nie.

(2) ’n Munisipaliteit moet, by die inwerkingtreding van hierdie Wet, grond wat onmiddellik voor die inwerkingtreding van hierdie Wet nie deur ’n soneringskema of dorpsbeplanningskema gereguleer is nie, met inbegrip van grond wat deur die Wet op Landelike Gebiede gereguleer is, insluit by ’n bestaande soneringskema beoog in artikel 33(1) of sy soneringskema aangeneem ooreenkomstig hierdie Wet.

(3) Totdat ’n munisipaliteit grond bedoel in subartikel (2) ooreenkomstig daardie subartikel insluit, is die skemaregulasies ingevolge artikel 8 of 9 van die Ordonnansie wat van krag bly ingevolge artikel 33 van hierdie Wet, van toepassing op daardie grond en moet die munisipaliteit ’n sonering of ’n geagte sonering bepaal, ooreenkomstig subartikel (4).

(4) Wanneer ’n munisipaliteit ingevolge subartikel (1), (2) of (3) ’n sonering of ’n geagte sonering bepaal, moet die munisipaliteit minstens die volgende in ag neem:

(a) die wettige aanwending van die grond, of die doel waarvoor die grond wettiglik aangewend kon word onmiddellik voor die inwerkingtreding van hierdie Wet indien dit vasgestel kan word;

(b) die sonering, indien enige, wat die mees versoenbaar is met daardie aanwending of doel en enige toepaslike titelvoorwaarde;

(c) enige afwyking of vergunningsgebruik wat saam met daardie sonering benodig kan word;

(d) in die geval van grond wat onmiddellik voor die inwerkingtreding van hierdie Wet onbebouд is, die aanwending wat toegelaat word ingevolge die titelvoorwaardes of, waar meer as een grondgebruik aldus toegelaat word, een van sodanige grondgebruike bepaal deur die munisipaliteit; en

(e) waar die wettige aanwending van die grond en die doel waarvoor dit onmiddellik voor die inwerkingtreding van hierdie Wet wettiglik aangewend kon word, nie vasgestel kan word nie, die sonering wat, tesame met enige afwyking of vergunningsgebruik wat benodig kan word, die wenslikste en versoenbaarste is met enige toepaslike titelvoorwaarde.

(5) ’n Bevoegde persoon wat ’n sonering vir grond beoog in subartikel (1) of (2) benodig, moet by die munisipaliteit aansoek doen vir die bepaling van ’n sonering.

(6) Sonering kan op ’n grondeenheid of gedeelte daarvan van toepassing gemaak word, en sonering hoef nie kadastrale grense te volg nie.

(7) ’n Gebruiksreg vestig in grond en nie in ’n persoon nie.

Hersonerings, afwykings of vergunningsgebruike

35. (1) ’n Bevoegde persoon wat ’n hersonering, afwyking of vergunningsgebruik ten opsigte van grond benodig, moet by die munisipaliteit aansoek doen.

(2) Wanneer ’n munisipaliteit grond waarvan hy nie die eienaar is nie uit eie beweging hersoneer, moet die munisipaliteit aan artikels 43 en 44 voldoen en minstens die aangeleenthede bedoel in artikel 49*(a)* tot *(e)* in ag neem.

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

Deel 4:

Onderverdeling

Onderverdeling van grond

36. (1) Geen persoon mag grond onderverdeel sonder die goedkeuring van die munisipaliteit tensy die onderverdeling vrygestel word ooreenkomstig artikel 61 nie.

(2) Behoudens artikel 61, moet ’n bevoegde persoon wat ’n onderverdeling van grond benodig by die munisipaliteit aansoek doen.

(3) ’n Munisipaliteit moet minstens die volgende vereis ten opsigte van ’n aansoek om onderverdeling:

(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; en

(b) die indiening van 'n onderverdelingsplan waarop die volgende aangetoon word:
   (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.

(4) Rakende 'n goedgekeurde onderverdeling, moet 'n munisipaliteit vir minstens die volgende voorsiening maak:

(a) die vestiging van eienaarskap of registrasie van openbare plekke soos beoog in artikel 37, en wanneer die vestiging plaasvind of die registrasie gedoen moet word;
(b) die bevestiging van sonerings ingevolge die goedgekeurde onderverdelingsplan, en wanneer die bevestiging plaasvind;
(c) wanneer 'n gebou of struktuur opgerig kan word op 'n grondeenheid wat deel uitmaak van die onderverdeling; en
(d) die wysiging van die soneringskema en algemene plan indien die onderverdeling ingevolge 'n voorwaarde beoog in subartikel (9) verval.

(5) 'n Munisipaliteit moet vir die goedkeuring van 'n onderverdeling gepaste voorwaardes in verband met ingenieursdienste beoog in artikel 40(2)*(a)* oplê.

(6) Wanneer 'n munisipaliteit 'n hersonering vir 'n doel wat onderverdeling insluit 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.

(7) Indien 'n munisipaliteit 'n onderverdeling goedkeur, moet die aansoeker 'n algemene plan of diagram by die Landmeter-generaal vir goedkeuring indien, met inbegrip van bewys tot die bevrediging van die Landmeter-generaal van minstens—

(a) die besluit om die onderverdeling goed te keur;
(b) die voorwaardes van goedkeuring beoog in subartikel (5) en artikel 40; en
(c) die goedgekeurde onderverdelingsplan.

(8) Indien 'n munisipaliteit 'n onderverdeling goedkeur, moet die aansoeker voorsiening maak vir, of voldoen aan, minstens die volgende vereistes:

(a) die goedkeuring deur die Landmeter-generaal van die algemene plan of diagram beoog in subartikel (7);
(b) voltooiing van die installering van ingenieursdienste ooreenkomstig die voorwaardes beoog in subartikel (5) of ander toepaslike wetgewing;
(c) bewys tot die bevrediging van die munisipaliteit dat daar aan alle tersaaklike voorwaardes beoog in artikel 40 vir die goedgekeurde onderverdeling ten opsigte van die gebied aangetoon op die algemene plan of diagram voldoen is; en
(d) registrasie van die oordrag van eienaarskap ingevolge die Registrasie van Aktes Wet van die grondeenheid wat op die diagram aangetoon word of van minstens een nuwe grondeenheid wat op die algemene plan aangetoon word.

(9) 'n Munisipaliteit moet oorweeg om, ooreenkomstig die minimum standaarde soos voorgeskryf kan word, 'n geldigheidstydperk op te lê vir 'n goedkeuring van 'n onderverdeling ten einde voorsiening te maak vir—

(a) die verval van 'n goedkeuring van 'n onderverdeling indien die aansoeker versuim om binne die geldigheidstydperk aan die vereistes bedoel in subartikel (8) te voldoen; en
(b) 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 voldoening binne die geldigheidstydperk aan die vereistes bedoel in subartikel (8).

(10) 'n Bevoegde persoon moet by die munisipaliteit aansoek doen indien hy of sy die wysiging of kansellering benodig van 'n goedgekeurde onderverdelingsplan, met inbegrip van voorwaardes van goedkeuring, die algemene plan of diagram, met

betrekking tot erwe aangetoon op die algemene plan of diagram waarvan geen oordrag ingevolge die Registrasie van Aktes Wet geregistreer is nie.

(11) Indien die wysiging of kansellering van 'n onderverdelingsplan goedgekeur is, moet die aansoeker die gewysigde of gekanselleerde onderverdelingsplan by die Landmeter-generaal indien om die algemene plan of diagram dienooreenkomstig te wysig of te kanselleer.

(12) Waar die wysiging of kansellering van 'n algemene plan die sluiting van 'n openbare plek vereis, moet dit ooreenkomstig artikel 37(3) en (5) tot (7) gesluit word.

(13) Die aansoeker is aanspreeklik vir enige uitgawe wat ontstaan as gevolg van die wysiging of kansellering van 'n onderverdelingsplan en wat deur die munisipaliteit of enige ander staatsorgaan aangegaan is ten opsigte van die heroordrag of terugval van grond aan die eienaar van die restant van die grond.

Deel 5:

Openbare plekke

Openbare plekke

37. (1) Waar grond vir 'n openbare plek bestem is soos aangetoon op 'n goedgekeurde onderverdelingsplan, moet die munisipaliteit voorsiening maak vir minstens—

(a) die vestiging in die munisipaliteit van die eienaarskap van daardie grond; of

(b) die registrasie van daardie grond in die naam van die munisipaliteit.

(2) 'n Munisipaliteit is nie aanspreeklik vir vergoeding vir die grond bedoel in subartikel (1) indien die verskaffing van die openbare plek gegrond is op die normale behoefte daaraan wat uit die onderverdeling voortspruit nie.

(3) 'n Munisipaliteit moet 'n openbare plek permanent sluit en die grond paslik hersoneer indien—

(a) die grond benodig word om permanent aangewend te word vir 'n doel wat anders is as die doel van die bevestigde sonerings van die onderverdeling waaruit die openbare plek voortgespruit het; of

(b) in die geval van 'n straat, dit nodig is om die posisie daarvan permanent te verander van die posisie wat goedgekeur is as deel van die onderverdeling waaruit die straat voortgespruit het.

(4) 'n Aansoeker in 'n grondgebruikaansoek wat die sluiting van 'n openbare plek benodig, hetsy permanent of tydelik, moet by die munisipaliteit aansoek doen.

(5) Wanneer 'n munisipaliteit die permanente sluiting van 'n openbare plek oorweeg, moet die munisipaliteit minstens die aangeleenthede bedoel in artikel 49*(a)* tot *(e)* in ag neem.

(6) Wanneer 'n munisipaliteit 'n openbare plek permanent sluit, moet die munisipaliteit minstens—

(a) voorsiening maak vir die betaling van vergoeding aan 'n persoon wat as gevolg van die permanente sluiting van die openbare plek verlies of skade gely het; en

(b) die eienaarskap van die grond na aanleiding van die permanente sluiting van die openbare plek reguleer.

(7) Die munisipaliteit moet die Landmeter-generaal van die permanente sluiting van 'n openbare plek in kennis stel en die Landmeter-generaal moet die algemene plan of diagram dienooreenkomstig wysig.

Deel 6:

Konsolidering van grondeenhede

Konsolidering van grondeenhede

38. (1) 'n Persoon mag nie 'n gebou of struktuur oprig wat bo-oor die erfgrense van twee of meer aangrensende erwe strek sonder die goedkeuring van die munisipaliteit nie.

(2) Behoudens artikel 61, moet 'n bevoegde persoon wat die konsolidering van grondeenhede benodig, by die munisipaliteit aansoek doen.

(3) Wanneer 'n munisipaliteit 'n konsolidering van grondeenhede goedkeur, moet die munisipaliteit die oplegging van 'n geldigheidstydperk vir die goedkeuring oorweeg.

Deel 7:

Beperkende voorwaardes

Opheffing, opskorting of wysiging van beperkende voorwaardes

39. (1) 'n Bevoegde persoon moet by die munisipaliteit aansoek doen indien hy of sy die opheffing, opskorting of wysiging van 'n beperkende voorwaarde benodig.

(2) 'n Kennisgewing van die aansoek moet ooreenkomstig artikel 44 op minstens die volgende persone beteken word:

(a) enige persoon wat in die titelakte vermeld word tot wie se voordeel die beperkende voorwaarde geld; en

(b) enige ander persoon wie se regte of regmatige verwagtinge geraak sal word deur die goedkeuring van die aansoek.

(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.

(4) Enige verwysing na die goedkeuring deur die Administrateur of Dorpekommissie in 'n beperkende voorwaarde, behalwe 'n beperkende voorwaarde ingevolge waarvan die Provinsiale Regering privaatregte verkry, word geag as 'n verwysing na die goedkeuring deur die tersaaklike munisipaliteit.

(5) Wanneer 'n munisipaliteit die opheffing, opskorting of wysiging van 'n beperkende voorwaarde oorweeg, moet die munisipaliteit minstens die volgende in ag neem:

(a) die finansiële of ander waarde van die regte wat 'n persoon of entiteit ingevolge die beperkende voorwaarde geniet, ongeag of dié regte persoonlik is of in die persoon as eienaar van 'n heersende erf vestig;

(b) die persoonlike voordele wat aan die houer van regte ingevolge die beperkende voorwaarde toeval;

(c) die persoonlike voordele wat sal toeval aan die persoon wat die opheffing, opskorting of wysiging van die beperkende voorwaarde verlang indien dit opgehef, opgeskort of gewysig word;

(d) die maatskaplike voordeel indien die beperkende voorwaarde in sy bestaande vorm in plek bly;

(e) die maatskaplike voordeel van die opheffing, opskorting of wysiging van die beperkende voorwaarde; en

(f) of die opheffing, opskorting of wysiging van die beperkende voorwaarde alle regte wat die begunstigde geniet volkome sal wegneem of slegs sommige van daardie regte.

(6) 'n Munisipaliteit moet sy besluit om 'n beperkende voorwaarde op te hef, op te skort of te wysig in minstens die *Provinsiale Koerant* publiseer en die Registrateur van Aktes dienooreenkomstig in kennis stel.

Deel 8:

Voorwaardes

Voorwaardes

40. (1) Wanneer 'n munisipaliteit 'n grondgebruikaansoek behoudens voorwaardes goedkeur, moet die voorwaardes redelike voorwaardes wees en uit die goedkeuring van die voorgestelde aanwending van grond voortspruit.

(2) Voorwaardes wat ooreenkomstig subartikel (1) opgelê word, kan die volgende insluit, maar is nie daartoe beperk nie:

(a) die verskaffing van ingenieursdienste en infrastruktuur;

(b) die oordrag van grond of die betaling van geld;

(c) die verskaffing van grond benodig vir openbare plekke of die betaling van geld in plaas van die verskaffing van grond vir daardie doel;

(d) die herstrukturering van nedersettings;

(e) bewaring van landbou- of erfenishulpbronne;

(f) bewaring en bestuur van biodiversiteit;

(g) die verskaffing van behuising met behulp van 'n staatsubsidie, maatskaplike fasiliteite of maatskaplike infrastruktuur;

(h) energiedoelmatigheid;

(i) vereistes om aandag te gee aan klimaatsverandering;
(j) die instelling van ’n eienaarsvereniging ten opsigte van ’n onderverdeling;
(k) die verskaffing van grond benodig deur ander staatsorgane;
(l) die endossering ingevolge artikel 31 van die Registrasie van Aktes Wet ten opsigte van openbare plekke waar die eienaarskap daarvan in die munisipaliteit vestig;
(m) die registrasie van openbare plekke in die naam van die munisipaliteit;
(n) die oordrag van eiendomsreg na die munisipaliteit van grond wat vir ander openbare doeleindes benodig word;
(o) die implementering van ’n onderverdeling in fases;
(p) die betaling van ’n strydigheidsheffing ten opsigte van die onwettige aanwending van grond;
(q) vereistes van ander staatsorgane.

(3) Behoudens subartikel (12) kan ’n voorwaarde beoog in subartikel (2)*(b)* ’n proporsionele bydrae tot munisipale openbare uitgawes vereis volgens die normale behoefte daaraan wat uit die goedkeuring voortspruit, soos bepaal deur die munisipaliteit ooreenkomstig norme en standaarde soos voorgeskryf kan word.

(4) Munisipale openbare uitgawes beoog in subartikel (3) sluit munisipale openbare uitgawes vir die volgende munisipaledienste-infrastruktuur en geriewe in, maar is nie daartoe beperk nie:
(a) gemeenskapsfasiliteite, met inbegrip van speeltoerusting, straatmeubels, bewaarskole, klinieke, sportgronde, binnenshuise sportfasiliteite of gemeenskapsale;
(b) bewaringsdoeleindes;
(c) energiebesparing;
(d) klimaatsverandering; of
(e) ingenieursdienste.

(5) Wanneer ’n munisipaliteit die bydrae beoog in subartikels (3) en (4) bepaal, moet die munisipaliteit minstens die volgende in ag neem:
(a) die munisipaledienste-infrastruktuur en geriewe vir die betrokke grond wat vir die goedgekeurde grondgebruik benodig word;
(b) die openbare uitgawes op daardie infrastruktuur en daardie geriewe wat in die verlede aangegaan is en wat die goedgekeurde grondgebruik fasiliteer;
(c) die openbare uitgawes op daardie infrastruktuur en daardie geriewe wat uit die goedgekeurde grondgebruik kan voortspruit;
(d) geld ten opsigte van bydraes beoog in subartikel (3) wat in die verlede deur die eienaar van die betrokke grond betaal is; en
(e) geld ten opsigte van bydraes beoog in subartikel (3) wat in die toekoms deur die eienaar van die betrokke grond betaal moet word.

(6) Behalwe vir grond wat vir openbare plekke of interne ingenieursdienste benodig word, moet enige bykomende grond benodig deur die munisipaliteit of ander staatsorgane wat uit ’n goedgekeurde onderverdeling voortspruit, verkry word behoudens toepaslike wette wat vir die verkryging of onteiening van grond voorsiening maak.

(7) ’n Munisipaliteit mag nie ’n grondgebruikaansoek goedkeur behoudens ’n voorwaarde dat goedkeuring ingevolge ander wetgewing vereis word nie.

(8) Indien ’n munisipaliteit ’n voorwaarde beoog in subartikel (2)*(a)* oplê, moet ’n ingenieursdienste-ooreenkoms tussen die munisipaliteit en die eienaar van die betrokke grond gesluit word voor die installering van infrastruktuur op die grond begin.

(9) ’n Eienaarsvereniging of huiseienaarsvereniging wat uit hoofde van ’n voorwaarde opgelê kragtens die Ordonnansie tot stand gekom het en wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan, word geag as ’n eienaarsvereniging wat uit hoofde van ’n voorwaarde opgelê deur ’n munisipaliteit ooreenkomstig hierdie Wet en ingevolge toepaslike verordeninge tot stand gekom het.

(10) Indien ’n munisipaliteit ’n grondgebruikaansoek behoudens voorwaardes goedkeur, moet hy vermeld aan welke voorwaardes voldoen moet word voor die verkoop, ontwikkeling of oordrag van die grond.

(11) ’n Persoon mag nie by die Registrateur van Aktes aansoek doen om ’n erf oor te dra tensy die persoon tot die bevrediging van die munisipaliteit bewys gelewer het van voldoening aan die voorwaardes van goedkeuring waaraan voldoen moet word voor die grond oorgedra kan word nie.

(12) ’n Munisipaliteit kan, indien gepas, afwyk van bydraes ooreenkomstig subartikels (3) en (5) bepaal.

Wysiging van voorwaardes

41. (1) Wanneer ’n munisipaliteit, uit eie beweging of by aansoek, ’n voorwaarde van goedkeuring wysig of daarvan afstand doen of bykomende voorwaardes van goedkeuring oplê, moet die munisipaliteit aan artikels 40 en 44 voldoen.

(2) Die wysiging of afstanddoening van ’n voorwaarde beoog in subartikel (1) wat ’n beperkende voorwaarde is, moet ooreenkomstig artikel 39 goedgekeur word.

Deel 9:

Prosedures en besluitneming

Minimum inligting ter indiening

42. ’n Aansoeker in ’n grondgebruikaansoek moet minstens 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;

(b) ’n afskrif van die titelakte; en

(c) die goedkeuring van die verbandhouer, indien enige.

Publisering van kennisgewings

43. (1) Wanneer ’n munisipaliteit van voorneme is om die volgende te oorweeg, moet die munisipaliteit minstens ’n kennisgewing van sy voorneme laat publiseer soos beoog in subartikels (2) tot (4):

(a) ’n grondgebruikaansoek om ’n hersonering of ’n hersonering uit eie beweging beoog in artikel 35;

(b) die onderverdeling van grond groter as vyf hektaar binne die buitenste grens van stedelike uitbreiding soos weergegee in sy munisipale ruimtelike ontwikkelingsraamwerk;

(c) die onderverdeling van grond groter as een hektaar buite die buitenste grens van stedelike uitbreiding soos weergegee in sy munisipale ruimtelike ontwikkelingsraamwerk;

(d) indien die munisipaliteit nie ’n goedgekeurde munisipale ruimtelike ontwikkelingsraamwerk het nie, die onderverdeling van grond groter as vyf hektaar binne die fisiese rand, met inbegrip van bestaande goedkeurings vir stedelike grondgebruik, van die bestaande stedelike gebied;

(e) indien die munisipaliteit nie ’n goedgekeurde munisipale ruimtelike ontwikkelingsraamwerk het nie, die onderverdeling van grond groter as een hektaar buite die fisiese rand, met inbegrip van bestaande goedkeurings vir stedelike grondgebruik, van die bestaande stedelike gebied;

(f) die sluiting van ’n openbare plek beoog in artikel 37;

(g) ’n grondgebruikaansoek ten opsigte van ’n beperkende voorwaarde beoog in artikel 39;

(h) die goedkeuring, wysiging, herroeping of hersiening van ’n soneringskema, of die goedkeuring van ’n soneringskaart;

(i) die regulering van vrystellings beoog in artikel 61;

(j) ander aansoeke wat die belange van die publiek of gemeenskap wesenlik sal raak indien dit goedgekeur word.

(2) ’n Kennisgewing beoog in subartikel (1) moet gepubliseer word—

(a) ooreenkomstig artikel 21 van die Munisipale Stelselswet in minstens twee van die amptelike tale van die Provinsie wat die meeste in die betrokke gebied gepraat word; en

(b) indien publisering soos beoog in paragraaf *(a)* ondoeltreffend geag word, deur ander doeltreffende middele, met inbegrip van aankondigings deur ’n megafoon, publisering op webblaaie of gemeenskapskennisgewingsborde, of kommunikasie deur middel van e-poslyste of sosiale media.

(3) ’n Munisipaliteit moet oorweeg of ’n kennisgewing beoog in subartikel (1) op die betrokke grond ten toon gestel moet word.

(4) Indien ’n kennisgewing op die grond ten toon gestel word, moet die munisipaliteit verseker dat die kennisgewing leesbaar bly vir die kennisgewingstydperk.

(5) ’n Kennisgewing beoog in subartikel (1) of ’n kennisgewing ingevolge die grondgebruikbeplanningsvereistes van ’n munisipaliteit moet minstens die volgende inligting bevat:

(a) die doel van die aangeleentheid wat gepubliseer word;

(b) ’n beskrywing van die grondeenheid of grondeenhede waarop die kennisgewing betrekking het;

(c) waar en wanneer besonderhede van die aangeleentheid wat gepubliseer word vir insae beskikbaar is; en

(d) die prosedure vir persone wat ’n belang het by, en geraak word deur, die kennisgewing om skriftelike kommentaar binne ’n tydperk van minstens 30 dae in te dien.

(6) Die publisering van ’n kennisgewing beoog in subartikel (1) onthef nie ’n munisipaliteit van die verpligting om ’n kennisgewing te laat beteken in die gevalle beoog in artikel 44(1) nie.

Betekening van kennisgewings

44. (1) Wanneer ’n munisipaliteit van voorneme is om die volgende te oorweeg, moet die munisipaliteit minstens ’n kennisgewing van sy voorneme laat beteken soos beoog in subartikel (2):

(a) ’n bepaling van ’n sonering of ’n geagte sonering beoog in artikel 34;

(b) ’n grondgebruikaansoek vir hersonering of hersonering uit eie beweging beoog in artikel 35;

(c) ’n grondgebruikaansoek vir onderverdeling of die wysiging of kansellering van ’n onderverdeling beoog in artikel 36;

(d) die sluiting van ’n openbare plek beoog in artikel 37;

(e) ’n grondgebruikaansoek om konsolidering beoog in artikel 38;

(f) ’n grondgebruikaansoek vir die opheffing, opskorting of wysiging van ’n beperkende voorwaarde beoog in artikel 39;

(g) die oplegging, wysiging of afstanddoening van ’n voorwaarde beoog in artikel 40 of 41.

(2) ’n Kennisgewing ingevolge subartikel (1) of ingevolge die grondgebruikbeplanningsvereistes van ’n munisipaliteit moet beteken word—

(a) op elke persoon wie se regte of regmatige verwagtinge geraak sal word indien die aangeleentheid of aansoek goedgekeur word;

(b) ooreenkomstig artikel 115 van die Munisipale Stelselswet; en

(c) in minstens twee van die amptelike tale van die Provinsie wat die meeste in die betrokke gebied gepraat word.

(3) ’n Munisipaliteit moet, wanneer hy ’n kennisgewing laat beteken ingevolge subartikel (1) of ingevolge die grondgebruikbeplanningsvereistes van ’n munisipaliteit, verseker dat die persoon wat in kennis gestel word in staat is om die volgende inligting uit die kennisgewing te bekom:

(a) die doel van die aangeleentheid waarmee die kennisgewing verband hou;

(b) ’n beskrywing van die grondeenheid of grondeenhede waarop die kennisgewing betrekking het;

(c) waar en wanneer besonderhede van die aangeleentheid waarvan kennis gegee word beskikbaar is vir insae; en

(d) die prosedure vir daardie persoon om skriftelike kommentaar binne ’n tydperk van minstens 30 dae in te dien.

Provinsiale kommentaar op grondgebruikaansoeke

45. (1) ’n Munisipaliteit moet ’n grondgebruikaansoek in verband met die volgende na die Departementshoof vir skriftelike provinsiale kommentaar verwys sodra die aansoek ooreenkomstig die vereistes van die munisipaliteit en artikel 42 voltooi is:

(a) ’n ontwikkeling buite die munisipaliteit se beplande buitenste grens van stedelike uitbreiding soos weergegee in sy munisipale ruimtelike ontwikkelingsraamwerk;

(b) indien die munisipaliteit nie ’n goedgekeurde munisipale ruimtelike ontwikkelingsraamwerk het nie, ’n ontwikkeling buite die fisiese rand, met inbegrip van bestaande goedkeurings vir stedelike grondgebruik, van die bestaande stedelike gebied;

(c) 'n hersonering van grond wat vir landbou- of bewaringsdoeleindes gesoneer is;

(d) enige ontwikkeling soos bepaal deur die munisipale bestuurder;

(e) ontwikkeling soos voorgeskryf wat 'n provinsiale funksionele gebied raak;

(f) enige ander kategorie van grondgebruikaansoeke soos voorgeskryf kan word met die doel om die vermoë van munisipaliteite te ondersteun en te versterk.

(2) Die Departementshoof moet, binne 60 dae van 'n versoek om kommentaar beoog in subartikel (1), skriftelike provinsiale kommentaar aan die munisipale bestuurder lewer.

(3) Die munisipaliteit mag nie oor 'n grondgebruikaansoek bedoel in subartikel (1) besluit totdat—

(a) hy die provinsiale kommentaar bedoel in subartikel (2) ontvang en oorweeg het nie; of

(b) die tydperk bedoel in subartikel (2) geëindig het en indien geen provinsiale kommentaar gedurende daardie tydperk ontvang is nie.

(4) Die tydperk bedoel in subartikel (2) kan met die instemming van die munisipaliteit verleng word.

(5) Die regulasies beoog in subartikel (1)*(f)* kan onderskei tussen verskillende soorte—

(a) munisipaliteite, wat omskryf kan word met betrekking tot—

(i) die unieke omstandighede van onderskeie munisipaliteite, met inbegrip van finansiële hulpbronne, vermoë en finansiële lewensvatbaarheid;

(ii) die kategorieë munisipaliteite ingevolge die Grondwet; of

(iii) kategorieë soos voorgeskryf kan word ten opsigte van die toesig oor, en monitering van, plaaslike regering; of

(b) grondgebruikaansoeke, wat met betrekking tot die kategorieë van grondgebruikaansoeke bedoel in hierdie Wet omskryf kan word.

(6) Die Provinsiale Minister kan, na oorlegpleging met die Provinsiale Kabinet, 'n koördineringskomitee verteenwoordigend van die provinsiale departemente aanstel om die kommentaar beoog in subartikel (1) te koördineer en saam te stel.

Maksimum tyd vir besluitneming

46. (1) 'n Munisipaliteit moet oor 'n grondgebruikaansoek besluit binne die tydperk soos voorgeskryf kan word, bereken vanaf die dag dat die aansoek voltooi is ooreenkomstig die vereistes van die munisipaliteit en artikel 42.

(2) 'n Munisipaliteit kan die tydperk beoog in subartikel (1) verleng in buitengewone omstandighede met betrekking tot die aard of ingewikkeldheid van die grondgebruikaansoek.

(3) Die tydperk beoog in subartikel (1) sluit vertragings uit wat veroorsaak word deur die versuim van die aansoeker om aan wetlike vereistes te voldoen.

(4) Indien 'n munisipaliteit versuim om 'n besluit binne die tydperk beoog in subartikel (1) te neem, kan die aansoeker appèl aanteken by die appèlgesag, wat dan oor die grondgebruikaansoek moet besluit.

Kommentaar deur staatsorgane

47. (1) 'n Staatsorgaan moet kommentaar op 'n grondgebruikaansoek lewer binne 60 dae van—

(a) ontvangs van 'n versoek om kommentaar op die aansoek; of

(b) ontvangs van al die inligting wat nodig is om kommentaar te lewer indien die aansoek nie volledig is nie en mits 'n versoek om bykomende inligting gerig word binne 14 dae van ontvangs van die versoek om kommentaar.

(2) Indien 'n staatsorgaan versuim om binne die tydperk bedoel in subartikel (1) kommentaar te lewer, moet die bevoegde gesag die staatsorgaan se rekenpligtige beampte of rekenpligtige gesag beoog in die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), van die versuim in kennis stel.

Gelde vir grondgebruikaansoeke

48. Wanneer 'n munisipaliteit die betaling van grondgebruikaansoekgelde vereis, moet die gelde bestaanbaar wees met minimum standaarde soos voorgeskryf kan word.

Grondslag van evaluering van grondgebruikaansoeke

49. Wanneer 'n munisipaliteit 'n grondgebruikaansoek oorweeg en daaroor besluit, moet die munisipaliteit minstens die volgende in ag neem:

(a) die toepaslike ruimtelike ontwikkelingsraamwerke;
(b) die toepaslike struktuurplanne;
(c) die beginsels bedoel in Hoofstuk VI;
(d) die wenslikheid van die voorgestelde grondgebruik; en
(e) riglyne, wat die Provinsiale Minister kan uitreik, rakende die wenslikheid van voorgestelde grondgebruik.

Kennisgewing van munisipale besluite

50. 'n Munisipaliteit moet nadat hy 'n besluit beoog in hierdie Hoofstuk geneem het, minstens—

(a) die aansoeker en enige persoon wat 'n beswaar teen die aansoek ingedien het skriftelik in kennis stel van die besluit; en
(b) die feit dat redes vir die besluit aangevra kan word en enige reg tot hersiening of appèl onder die aandag van die aansoeker en daardie persoon bring.

Appèlle teen munisipale besluite

51. (1) Die werking van die goedkeuring van 'n grondgebruikaansoek wat die onderwerp van 'n appèl is, word opgeskort hangende die besluit van die appèlgesag oor die appèl.

(2) Die munisipaliteit moet die aansoeker in kennis stel wanneer 'n appèl aangeteken is deur 'n persoon behalwe die aansoeker.

(3) Indien daar 'n appèl aangeteken is slegs teen die voorwaardes wat ingevolge artikel 40 opgelê word, kan die munisipaliteit bepaal dat die goedkeuring van die grondgebruikaansoek nie opgeskort word nie.

(4) Die munisipaliteit moet die partye by die appèl in kennis stel van die besluit ten opsigte van die appèl.

Provinsiale kommentaar op appèlle

52. (1) 'n Munisipale bestuurder—

(a) kan die Provinsiale Minister versoek om skriftelike kommentaar op 'n appèl na 'n appèlgesag te lewer; en
(b) moet die Provinsiale Minister in kennis stel van 'n appèl na 'n appèlgesag ten opsigte van 'n grondgebruikaansoek bedoel in artikel 45(1)*(a)* tot *(f)* en die Provinsiale Minister versoek om op die appèl kommentaar te lewer.

(2) Die Provinsiale Minister moet, binne 60 dae van ontvangs van 'n versoek om kommentaar beoog in subartikel (1), sy of haar skriftelike kommentaar aan die munisipale bestuurder lewer.

(3) 'n Appèlgesag mag nie oor 'n appèl besluit totdat—

(a) hy die kommentaar deur die Provinsiale Minister bedoel in subartikel (2) ontvang en oorweeg het nie; of
(b) die tydperk bedoel in subartikel (2) geëindig het en indien geen kommentaar gedurende daardie tydperk van die Provinsiale Minister ontvang is nie.

(4) Die tydperk bedoel in subartikel (2) kan met die instemming van die munisipaliteit verleng word.

(5) 'n Munisipaliteit moet, binne 30 dae van 'n besluit oor 'n appèl beoog in subartikel (1)*(b)*, 'n skriftelike kennisgewing van die besluit en die redes vir die besluit by die Provinsiale Minister indien.

HOOFSTUK V

PROVINSIALE ONTWIKKELINGSBESTUUR

Provinsiale goedkeuring van grondontwikkeling

53. (1) Geen persoon mag sonder 'n goedkeuring kragtens subartikel (2) of 'n vrystelling kragtens subartikel (3) grond ontwikkel wat 'n wesenlike uitwerking sal hê op—

(a) die ordelike, gekoördineerde of harmoniese ontwikkeling van 'n streek of die Provinsie;
(b) die algemene welsyn van die inwoners van 'n streek of die Provinsie; of
(c) landbou,

weens—

(i) die aard of skaal van die voorgestelde grondgebruik nie; of
(ii) die kumulatiewe uitwerking van meervoudige ontwikkelings nie.

(2) Die eienaar van die betrokke grond of 'n persoon wat deur die eienaar gemagtig is kan by die Departementshoof aansoek om goedkeuring doen om grond te ontwikkel wat die uitwerking beoog in subartikel (1) sal hê.

(3) Die Provinsiale Minister kan kategorieë van grondontwikkeling daarvan vrystel om goedkeuring kragtens subartikel (1) te benodig in een of meer van die volgende omstandighede:

(a) waar die grondontwikkeling aan die toepaslike ruimtelike ontwikkelingsraamwerke voldoen;
(b) waar die grondontwikkeling met ander provinsiale beleid bestaanbaar is;
(c) om vir infrastruktuurprojekte van die regering voorsiening te maak; of
(d) waar provinsiale goedkeuring ingevolge ander wetgewing verleen is.

(4) Die Provinsiale Minister kan regulasies maak of by kennisgewing in die *Provinsiale Koerant* riglyne uitreik om vir kategorieë van grondontwikkeling beoog in subartikel (1) voorsiening te maak.

(5) 'n Goedkeuring deur die Departementshoof van 'n grondontwikkelingsaansoek onthef nie 'n aansoeker van die verpligting om die vereiste goedkeuring van die munisipaliteit vir die grondontwikkeling te verkry nie.

(6) 'n Goedkeuring deur 'n munisipaliteit van 'n grondgebruiksaansoek onthef nie 'n aansoeker van die verpligting om die vereiste goedkeuring van die Departementshoof vir die grondontwikkeling te verkry nie.

(7) Die Departementshoof moet, na oorlegpleging met die hoof van die departement verantwoordelik vir landbou, oor 'n grondontwikkelingsaansoek beoog in subartikel (1)*(c)* besluit.

(8) Die Provinsiale Minister moet, na oorlegpleging met die Provinsiale Minister verantwoordelik vir landbou, oor 'n appèl ten opsigte van 'n grondontwikkelingsaansoek beoog in subartikel (1)*(c)* besluit.

Besluit van Departementshoof

54. (1) Die Departementshoof moet oor 'n grondgebruikaansoek besluit binne—

(a) 90 dae van ontvangs daarvan indien die aansoek ingevolge 'n geïntegreerde prosedure beoog in artikel 67(2) gepubliseer is;
(b) sewe maande van ontvangs daarvan indien die aansoek soos beoog in subartikel (2) verwerk word; of
(c) die voorgeskrewe tydperk beoog in artikel 67(4).

(2) Die Provinsiale Minister moet prosedures ten opsigte van grondontwikkelingsaansoeke voorskryf, met inbegrip van prosedures vir openbare deelname, interregeringsoorlegpleging en die wyse waarop die Departementshoof 'n grondontwikkelingsaansoek ontvang, oorweeg en daaroor besluit.

(3) Indien 'n grondontwikkelingsaansoek nie gepubliseer is soos beoog in subartikel (1)*(a)* of *(c)* nie, moet die Departementshoof die aansoek ingevolge die prosedures beoog in subartikel (2) laat publiseer.

(4) Die Departementshoof kan 'n grondontwikkelingsaansoek goedkeur behoudens redelike voorwaardes wat uit die goedkeuring van die voorgestelde aanwending van grond voortspruit.

(5) Voorwaardes wat ooreenkomstig subartikel (4) opgelê word, kan voorwaardes in verband met die volgende insluit, maar is nie daartoe beperk nie:

(a) nedersettingsherstrukturering;
(b) landbou- of erfenishulpbronbewaring;
(c) bewaring en bestuur van biodiversiteit;
(d) energiedoelmatigheid;
(e) vereistes om aandag te gee aan klimaatsverandering;
(f) die verskaffing van grond benodig deur ander staatsorgane;
(g) die vereistes van ander staatsorgane.

(6) Die Departementshoof mag nie 'n grondontwikkelingsaansoek goedkeur behoudens 'n voorwaarde dat goedkeuring ingevolge ander wetgewing vereis word nie.

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

(a) die besluit ooreenkomstig die Wes-Kaapse Provinsiale Talewet, 1998 (Wet 13 van 1998), in koerante wat in omloop is in die tersaaklike gebied en in die *Provinsiale Koerant* laat publiseer; en

(b) die aansoeker, en enige persoon wie se regte geraak word en wat kommentaar ingedien het, skriftelik in kennis stel van sy of haar besluit.

(8) Die Provinsiale Minister kan aansoekgelde voorskryf wat betaalbaar is deur die aansoeker in 'n grondontwikkelingsaansoek.

Grondslag van evaluering van grondontwikkelingsaansoeke

55. Wanneer die Departementshoof 'n grondontwikkelingsaansoek kragtens artikel 54 oorweeg en daaroor besluit—

(a) is die Departementshoof beperk tot die oorweging van daardie aspekte van die voorgestelde grondontwikkeling wat 'n uitwerking beoog in artikel 53(1) sal hê;

(b) moet die Departementshoof die wenslikheid van daardie aspekte van die voorgestelde grondontwikkeling oorweeg; en

(c) moet die Departementshoof die volgende in ag neem:

(i) die toepaslike ruimtelike ontwikkelingsraamwerke;

(ii) die toepaslike struktuurplanne;

(iii) die beginsels bedoel in Hoofstuk VI; en

(iv) riglyne wat die Provinsiale Minister kan uitreik rakende die wenslikheid van voorgestelde grondontwikkeling.

Appèl na Provinsiale Minister

56. (1) 'n Persoon wie se regte deur 'n besluit van die Departementshoof kragtens artikel 54 geraak word, kan, binne 21 dae van die datum van kennisgewing van die besluit, teen die besluit appèl aanteken deur die Provinsiale Minister skriftelik van die appèl en die redes daarvoor kennis te gee.

(2) Die werking van 'n goedkeuring van 'n grondontwikkelingsaansoek wat die onderwerp van 'n appèl is, word opgeskort hangende die besluit van die Provinsiale Minister oor die appèl.

(3) Die Departementshoof moet die aansoeker in kennis stel wanneer 'n appèl aangeteken is deur 'n persoon behalwe die aansoeker.

(4) Indien daar 'n appèl aangeteken is slegs teen die voorwaardes wat ingevolge artikel 54(4) opgelê word, kan die Departementshoof bepaal dat die goedkeuring van die grondontwikkelingsaansoek nie opgeskort word nie.

(5) 'n Persoon wie se regte geraak word deur die versuim van die Departementshoof om binne die tydperk beoog in artikel 54(1) oor 'n aansoek te besluit, kan teen die oponthoud appèl aanteken deur die Provinsiale Minister skriftelik van die appèl en die redes daarvoor kennis te gee.

(6) Die Provinsiale Minister moet, binne die voorgeskrewe tydperk, 'n appèl ooreenkomstig die voorgeskrewe prosedure oorweeg en kan—

(a) die besluit bevestig, wysig of intrek; of

(b) in die geval van 'n appèl ingevolge subartikel (5), oor die aansoek besluit.

(7) Die Provinsiale Minister moet, binne 14 dae van sy of haar besluit, die partye by die appèl skriftelik van die besluit in kennis stel.

(8) Die Provinsiale Minister kan appèlgelde wat betaalbaar is deur 'n persoon wat ingevolge hierdie artikel appelleer, voorskryf.

Verval van grondontwikkelingsgoedkeurings

57. (1) Die goedkeuring van 'n grondontwikkelingsaansoek kragtens artikel 54 verval indien daar nie binne 'n tydperk van 10 jaar vanaf die datum waarop die goedkeuring in werking getree het aan die volgende vereistes voldoen word nie:

(a) die goedkeuring deur die munisipaliteit van 'n bouplan beoog vir die aanwending van die grond ingevolge 'n gebruiksreg ten opsigte van die goedgekeurde grondontwikkeling; en

(b) aanvang met die bouwerk van 'n gebou beoog in die bouplan bedoel in paragraaf *(a)*.

(2) ’n Persoon wat die eienaar van die betrokke grond is of ’n persoon wat deur die eienaar gemagtig is, kan by die Departementshoof aansoek doen om ’n verlenging van die tydperk bedoel in subartikel (1).

(3) ’n Aansoek om ’n verlenging moet voor die verstryking van die tydperk bedoel in subartikel (1) skriftelik by die Departementshoof ingedien word.

(4) By oorweging van ’n aansoek om ’n verlenging, moet die Departementshoof in ag neem of—

(a) die omstandighede wat ten tye van die oorspronklike aansoek geheers het wesenlik verander het;

(b) wetlike of beleidsvereistes van toepassing op die goedkeuring wat ten tye van die oorspronklike aansoek geheers het wesenlik verander het; en

(c) nuwe voorwaardes van goedkeuring nodig is.

HOOFSTUK VI

BEGINSELS VIR GRONDGEBRUIKBEPLANNING

Toepassing van beginsels vir grondgebruikbeplanning

58. Die beginsels vir grondgebruikbeplanning wat in hierdie Hoofstuk uiteengesit word, is van toepassing op alle staatsorgane wat verantwoordelik is vir die implementering van wetgewing wat die aanwending en ontwikkeling van grond reguleer, en dié beginsels lei—

(a) die voorbereiding, aanneming en implementering van ’n ruimtelike ontwikkelingsraamwerk of soneringskema, en van enige beleid of wet rakende grondgebruikbeplanning;

(b) enige stappe ter versekering van volhoubare ontwikkeling;

(c) die oorweging deur ’n bevoegde gesag ingevolge hierdie Wet en enige ander tersaaklike gesag van ’n aansoek wat ’n impak op die aanwending en ontwikkeling van grond het; en

(d) die verrigting van ’n werksaamheid ingevolge hierdie Wet of ander wetgewing wat grondgebruikbeplanning reguleer.

Beginsels vir grondgebruikbeplanning

59. (1) Grondgebruikbeplanning word deur die volgende beginsels van ruimtelike geregtigheid gelei:

(a) ruimtelike en ander ontwikkelingswanbalanse uit die verlede behoort reggestel te word deur verbeterde toegang tot, en aanwending van, grond;

(b) ruimtelike ontwikkelingsraamwerke en beleid by alle regeringsfere behoort aandag te gee aan die insluiting van persone en gebiede wat voorheen uitgesluit is, met ’n klem op informele nedersettings en gebiede wat deur wydverspreide armoede en ontneming gekenmerk word;

(c) ruimtelike beplanningsmeganismes, met inbegrip van soneringskemas, behoort bepalings in te sluit wat regstelling in toegang tot grond deur benadeelde gemeenskappe en persone moontlik maak;

(d) grondgebruikbestuurstelsels behoort alle gebiede van ’n munisipaliteit in te sluit en spesifiek bepalings in te sluit wat buigsaam en gepas is vir die bestuur van benadeelde gebiede en informele nedersettings;

(e) grondontwikkelingsprosedures moet bepalings insluit wat toegang tot, en die fasilitering van, sekerheid van verblyfreg en die stapsgewyse opgradering van informele gebiede akkommodeer;

(f) ’n bevoegde gesag beoog in hierdie Wet of ander tersaaklike gesag wat ’n aansoek oorweeg wat voor die gesag dien, mag nie belemmer of beperk word in die uitoefening van sy of haar diskresie alleenlik op grond daarvan dat die waarde van grond of eiendom deur die uitslag van die aansoek geraak sal word nie; en

(g) die reg van eienaars om grond ooreenkomstig huidige gebruiksregte te ontwikkel, behoort erken te word.

(2) Grondgebruikbeplanning word gelei deur die volgende beginsels van ruimtelike volhoubaarheid:

(a) grondgebruikbeplanning behoort—

(i) grondontwikkeling te bevorder wat ruimtelik kompak, hulpbronspaarsamig en binne die fiskale, institusionele en administratiewe

vermoëns van die tersaaklike bevoegde gesag ingevolge hierdie Wet of ander tersaaklike gesag is;

(ii) te verseker dat spesiale oorweging geskenk word aan die beskerming van prima, unieke en hoëpotensiaal- landbougrond;

(iii) konsekwentheid van grondgebruikmaatreëls ooreenkomstig omgewingsbestuursinstrumente te handhaaf;

(iv) die doeltreffende en billike funksionering van grondmarkte te bevorder en te stimuleer;

(v) alle huidige en toekomstige kostes aan alle partye vir die verskaffing van infrastruktuur en maatskaplike dienste in grondontwikkeling te oorweeg;

(vi) grondontwikkeling te bevorder in plekke wat volhoubaar is en stadskruip beperk;

(vii) aanleiding te gee tot lewensvatbare gemeenskappe; en

(viii) te poog om te verseker dat daar op 'n bekostigbare wyse aan die basiese behoeftes van alle burgers voldoen word;

(b) die voortgesette beskerming van die omgewing behoort verseker te word deur die volgende in ag te neem:

(i) natuurlike habitat, ekologiese stroke en gebiede van groot belang vir biodiversiteit;

(ii) die provinsiale erfenis- en toerismehulpbronne;

(iii) gebiede wat ongeskik is vir ontwikkeling, met inbegrip van vloedvlaktes, steil hellings, vleilande en gebiede met 'n hoë watertafel en landskappe en natuurverskynsels van kulturele belang; en

(iv) die ekonomiese potensiaal van die tersaaklike gebied of streek;

(c) strategieë ter aanpassing by, en ter versagting van, klimaatsverandering behoort by grondgebruikbeplanning ontwikkel en oorweeg te word;

(d) die verskaffing en besparing van energie en die bestuur van die aanvraag daarvoor behoort by grondgebruikbeplanning oorweeg te word;

(e) die veilige aanwending van grond behoort verseker te word deur die inagneming van faktore soos styging in die seevlak, stormdeinings, oorstromings, brandgevare en geologiese formasies;

(f) die onwettige besetting van grond behoort ontmoedig te word met behoorlike erkenning van praktyke van informele grondontwikkeling; en

(g) ontwikkeling behoort beginselgedrewe te wees en aan langtermyn-maatskaplike, ekonomiese en omgewingsvoordele voorrang te verleen bo korttermynvoordele.

(3) Grondgebruikbeplanning word deur die volgende beginsels van doelmatigheid gelei:

(a) grondontwikkeling behoort die gebruik van bestaande hulpbronne, infrastruktuur, landbou, grond, minerale en fasiliteite te optimaliseer;

(b) geïntegreerde stede en dorpe behoort ontwikkel te word, waarvolgens—

(i) die maatskaplike, ekonomiese, institusionele en fisiese aspekte van grondontwikkeling geïntegreer word;

(ii) grondontwikkeling in landelike en stedelike gebiede ter ondersteuning van mekaar bevorder word;

(iii) die beskikbaarheid van woon- en werkgeleenthede wat naby mekaar geleë is of met mekaar geïntegreer is, bevorder word;

(iv) 'n uiteenlopende kombinasie van grondgebruike bevorder word;

(v) die verskynsel van stadskruip in stedelike gebiede ontmoedig word en die ontwikkeling van meer kompakte dorpe en stede met digter bewoning bevorder word;

(vi) histories verwronge ruimtelike nedersettingspatrone reggestel word; en

(vii) die gehalte en funksionaliteit van die openbare ruimtelike omgewing bevorder word; en

(c) beleid, administratiewe praktyk en wetgewing behoort spoedige grondontwikkeling te bevorder.

(4) Grondgebruikbeplanning word deur die volgende beginsels van goeie administrasie gelei:

(a) alle regeringsfere behoort 'n geïntegreerde benadering tot grondgebruikbeplanning te verseker;

(b) alle regeringsdepartemente moet hul sektorinsette verskaf en aan enige ander wetlike vereistes voldoen gedurende die voorbereiding of wysiging van ruimtelike ontwikkelingsraamwerke;

(c) daar moet betyds aan die vereistes van enige wet rakende grondontwikkeling voldoen word;

(d) die voorbereiding en wysiging van ruimtelike planne, beleid, soneringskemas en prosedures vir grondontwikkelings- en grondgebruikaansoeke behoort deursigtige prosesse van openbare deelname in te sluit wat alle partye die geleentheid gun om insette te lewer oor aangeleenthede wat hulle raak;

(e) wetgewing, prosedures en administratiewe praktyk in verband met grondontwikkeling behoort duidelik te wees en voorspelbaarheid, vertroue en aanvaarding te bevorder ten einde lede van die publiek in te lig en te bemagtig;

(f) ’n ruimtelike ontwikkelingsraamwerk, soneringskema of beleid behoort in fases ontwikkel te word en elke fase in die ontwikkeling daarvan behoort oorlegpleging met die publiek en tersaaklike staatsorgane in te sluit en behoort deur die tersaaklike bevoegde gesag geëndosseer te word;

(g) besluitnemingsprosedures behoort ontwerp te word om negatiewe finansiële, maatskaplike, ekonomiese of omgewingsimpakte te minimaliseer;

(h) ontwikkelingsaansoekprosedures behoort doelmatig en vaartbelyn te wees en alle partye behoort by tydraamwerke te hou; en

(i) besluitneming in alle regeringsfere behoort gelei te word deur, en gevolg te gee aan, statutêre stelsels vir grondgebruikbeplanning.

(5) Grondgebruikbeplanning word gelei deur die beginsel van ruimtelike veerkragtigheid, waarvolgens buigsaamheid in ruimtelike planne, beleid en stelsels vir grondgebruikbestuur geakkommodeer word om volhoubare bestaansmiddele te verseker in gemeenskappe wat die kwesbaarste is vir die impak van ekonomiese en omgewingskokke.

(6) Die Provinsiale Minister kan verdere grondgebruikbeplanningsbeginsels voorskryf.

(7) Die Provinsiale Minister moet, voordat hy of sy beginsels kragtens subartikel (6) voorskryf—

(a) die konsepbeginsels in die media publiseer op ’n wyse wat munisipaliteite en ander belanghebbende persone ’n geleentheid gee om kommentaar op die konsepbeginsels te lewer; en

(b) die kommentaar wat ingevolge paragraaf *(a)* gelewer is, oorweeg.

HOOFSTUK VII

VRYSTELLINGS EN MAGTIGINGS

Provinsiale vrystellings en magtigings

60. (1) Die Provinsiale Minister kan, by kennisgewing in die *Provinsiale Koerant*, ’n munisipaliteit vrystel van ’n bepaling bedoel in Hoofstuk III of IV, om die finansiële of administratiewe las te verminder van—

(a) geïntegreerde aansoekprosesse beoog in artikel 67;

(b) die lewering van behuising met behulp van ’n staatsubsidie; of

(c) stapsgewyse opgradering van bestaande nedersettings.

(2) In ’n noodsituasie kan die Provinsiale Minister ’n munisipaliteit skriftelik magtig om van ’n bepaling van hierdie Wet af te wyk.

(3) ’n Magtiging kragtens subartikel (2) verstryk 90 dae vandat dit gegee is, tensy dit voor die verstryking ingetrek word.

(4) In ’n noodsituasie beoog in subartikel (2) is die beginsels bedoel in Hoofstuk VI steeds van toepassing.

(5) Die Provinsiale Minister moet—

(a) binne 48 uur van ’n magtiging kragtens subartikel (2), of ’n wysiging of 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

(b) binne 14 dae van die magtiging of die wysiging of intrekking van die voorwaarde, ’n verslag daarvan by die Provinsiale Kabinet indien.

(6) Die Provinsiale Minister kan ’n voorwaarde van ’n vrystelling of magtiging kragtens subartikel (1) of (2), oplê, intrek of wysig.

Vrystellings in verband met onderverdelings en konsoliderings

61. (1) Die onderverdeling of konsolidering van grondeenhede word van die toepassing van artikels 36(1) en 38(1) vrygestel indien dit voortspruit uit—

(a) die implementering van 'n hofuitspraak; of

(b) 'n onteiening.

(2) 'n Munisipaliteit kan, ooreenkomstig artikel 43, voorsiening maak vir die vrystelling van artikel 36(1) of 38(1) van kategorieë van onderverdeling of konsolidering van grondeenhede, en kan die vrystelling reguleer, met inbegrip van die onderverdeling of konsolidering van grondeenhede wat voortspruit uit die volgende:

(a) 'n mindere wysiging van die gemeenskaplike grens tussen twee of meer grondeenhede;

(b) die konsolidering van 'n geslote openbare plek met 'n aangrensende erf;

(c) die bou of verandering van 'n openbare of geproklameerde straat;

(d) die registrasie van 'n serwituut of 'n huurooreenkoms vir—

(i) die verskaffing of installering van waterpyplyne, elektrisiteits-toevoerlyne, rioolpyplyne, gaspyplyne of olie- en petroleumproduk-pyplyne deur of namens 'n staatsorgaan of diensverskaffer;

(ii) die verskaffing of installering van telekommunikasielyne deur of namens 'n gelisensieerde telekommunikasie-operateur;

(iii) die verlening van 'n reg van weg;

(iv) die oplegging van hoogtebeperkings; of

(v) die verlening van 'n reg van bewoning of vruggebruik;

(e) die uitsluitlike aanwending van grond vir landboudoeleindes indien die aanwending—

(i) goedkeuring vereis ingevolge wetgewing wat die onderverdeling van landbougrond reguleer; en

(ii) nie aanleiding gee tot stedelike uitbreiding nie; of

(f) buitengewone omstandighede indien die vrystelling nie munisipale grondgebruikbeplanning of die regte of regmatige verwagtinge van enige persoon nadelig raak nie.

(3) Die Landmeter-generaal mag nie 'n algemene plan of diagram ten opsigte van die onderverdeling of konsolidering van grondeenhede beoog in hierdie artikel goedkeur of wysig sonder skriftelike bevestiging van die munisipaliteit dat die onderverdeling of konsolidering deur 'n munisipaliteit ooreenkomstig hierdie artikel vrygestel word nie.

HOOFSTUK VIII

BEPLANNINGSADVIESKOMITEE

Beplanningsadvieskomitee

62. (1) Die Provinsiale Minister kan 'n Beplanningsadvieskomitee instel.

(2) Die Komitee gee raad en doen aanbevelings aan die Provinsiale Minister op sy of haar versoek, ten opsigte van—

(a) aangeleenthede wat die toepassing van hierdie Wet raak; of

(b) regulasies wat ingevolge hierdie Wet nodig kan wees.

Samestelling van Komitee

63. (1) Die lede van die Komitee moet deur die Provinsiale Minister aangestel word en bestaan uit—

(a) 'n werknemer van die Departement wat deur die Departementshoof aangewys word, as 'n *ex officio*-lid; en

(b) minstens vyf en hoogstens 10 ander lede, soos die Provinsiale Minister kan bepaal.

(2) Die lede van die Komitee moet aangestel word uit hoofde van hul kwalifikasies en ondervinding in, en kennis van, grondgebruikbeplanning en aangeleenthede wat met die toepassing van hierdie Wet verband hou en moet permanent in die Provinsie woonagtig wees.

(3) Die lede van die Komitee bedoel in subartikel (1)*(b)* kan slegs aangestel word nadat die Provinsiale Minister, by kennisgewing in die *Provinsiale Koerant* en in ander media wat die Provinsiale Minister gepas ag, belanghebbende partye uitgenooi het om

binne die tydperk vermeld in die kennisgewing name voor te lê van persone wat geskik en gepas is om aldus aangestel te word.

Ampstermyn en diensvoorwaardes

64. (1) 'n Lid word vir 'n termyn van drie jaar, wat eenmalig hernubaar is, aangestel.

(2) Die pos van 'n lid raak vakant indien—

(a) die lid van twee opeenvolgende vergaderings van die Komitee sonder die verlof van die voorsitter van die Komitee afwesig is;

(b) die lid sy of haar bedanking skriftelik by die voorsitter van die Komitee indien;

(c) die lid kragtens subartikel (3) uit die Komitee verwyder word; of

(d) die lid sterf.

(3) Die Provinsiale Minister kan 'n lid van die Komitee verwyder indien genoegsame redes vir sy of haar verwydering bestaan.

(4) 'n Vakature in die Komitee moet deur die Provinsiale Minister ingevolge artikel 63 gevul word.

(5) 'n Lid wat uit hoofde van subartikel (4) aangestel word, beklee die amp vir die onverstreke gedeelte van die tydperk waarvoor die lid wat hy of sy vervang, aangestel is.

(6) Die Provinsiale Minister moet 'n voorsitter en 'n ondervoorsitter vir die Komitee uit die geledere van die Komitee aanwys.

(7) Die Provinsiale Minister kan ander aanstellingsvoorwaardes bepaal waarvoor daar nie in hierdie artikel voorsiening gemaak word nie.

(8) Lede van die Komitee bedoel in artikel 63(1)*(b)* moet op die bepalings en voorwaardes aangestel word, en moet die vergoeding en toelaes betaal word en vergoed word vir uitgawes soos bepaal deur die Provinsiale Minister met die instemming van die lid van die Provinsiale Kabinet verantwoordelik vir finansies.

Vergaderings van Komitee

65. (1) Die Komitee kan, met die goedkeuring van die Provinsiale Minister, reëls opstel ten opsigte van besluitneming deur die Komitee en die hou van, en die prosedures by, vergaderings van die Komitee.

(2) Vergaderings van die Komitee moet op die tye en by die plekke vergader wat deur die voorsitter van die Komitee ooreenkomstig die reëls van die Komitee bepaal word.

(3) Die Komitee kan 'n subkomitee aanstel wat bestaan uit lede van die Komitee met die nodige kundigheid om die Provinsiale Minister oor 'n bepaalde aangeleentheid te adviseer.

HOOFSTUK IX

ALGEMENE BEPALINGS

Deel 1:

Evaluering van aangeleenthede oor grondgebruikbeplanning

Evaluerings en aanbevelings deur geregistreerde beplanners

66. (1) 'n Munisipaliteit moet 'n skriftelike evaluering van, en aanbeveling deur, 'n geregistreerde beplanner wat, behoudens subartikel (2), deur die munisipaliteit aangestel is, oorweeg voordat hy besluit oor—

(a) die aanneming of wysiging van 'n munisipale ruimtelike ontwikkelingsraamwerk;

(b) die aanneming of wysiging van 'n soneringskema;

(c) 'n hersonering;

(d) 'n onderverdeling van 'n grondgebied bedoel in 'n grondgebruikaansoek in meer as 20 kadastrale eenhede;

(e) die sluiting van 'n openbare plek; of

(f) 'n opheffing, opskorting of wysiging van 'n beperkende voorwaarde indien dit verband hou met 'n verandering van grondgebruik.

(2) Die Provinsiale Regering kan op versoek van 'n munisipaliteit wat nie oor die dienste van 'n geregistreerde beplanner beskik nie, 'n geregistreerde beplanner aanstel,

behoudens die wette wat aanstellings of sekonderings in die staatsdiens of verkryging van dienste deur die Departement reguleer, om die evaluering en aanbeveling beoog in subartikel (1) te verskaf.

(3) Die Provinsiale Regering kan 'n ooreenkoms met 'n munisipaliteit beoog in subartikel (2) aangaan ten opsigte van die aanspreeklikheid vir die kostes verbonde aan die aanstelling uit hoofde van subartikel (2) van 'n geregistreerde beplanner.

(4) Die Departementshoof of die Provinsiale Minister, na gelang van die geval, moet 'n skriftelike evaluering van, en aanbeveling deur, 'n geregistreerde beplanner wat aangestel is ingevolge die wette wat aanstellings in die staatsdiens of verkryging van dienste deur die Departement reguleer, oorweeg voor hy of sy—

(a) besluit oor die aanneming of wysiging van 'n provinsiale ruimtelike ontwikkelingsraamwerk of 'n provinsiale streeks- ruimtelike ontwikkelingsraamwerk;

(b) kommentaar beoog in artikel 12(4) of 13(2) op die aanneming of wysiging van 'n munisipale ruimtelike ontwikkelingsraamwerk verskaf;

(c) kommentaar beoog in artikel 26(4) of 27(2) op die aanneming of wysiging van 'n soneringskema verskaf;

(d) kommentaar beoog in artikel 45 op 'n grondgebruikaansoek verskaf;

(e) kommentaar beoog in artikel 52 op 'n appèl verskaf; of

(f) besluit oor 'n grondontwikkelingsaansoek beoog in Hoofstuk V.

Deel 2:

Geïntegreerde prosedures en besluite

Geïntegreerde prosedures en besluite

67. (1) Die Departementshoof, munisipaliteite en ander staatsorgane wat ander wetgewing administreer in verband met aktiwiteite wat goedkeuring ooreenkomstig hierdie Wet asook daardie wetgewing vereis—

(a) moet poog om die prosedurele vereistes vir besluitneming ingevolge hierdie Wet en daardie wetgewing te koördineer en in ooreenstemming te bring, ten einde duplisering te vermy; en

(b) kan met mekaar skriftelike ooreenkomste aangaan om duplisering in die indiening van inligting of die uitvoering van 'n proses te vermy.

(2) 'n Ooreenkoms beoog in subartikel (1)*(b)* kan—

(a) voorsiening maak vir geïntegreerde goedkeurings;

(b) die geïntegreerde indiening van, openbare en interregeringsoorlegpleging oor, en evaluering van, veelvoudige aansoeke deur munisipaliteite, die Departementshoof en ander staatsorgane vir 'n spesifieke voorgestelde ontwikkeling of aanwending van grond fasiliteer;

(c) die gelyktydige publisering van die besluite van munisipaliteite, die Departementshoof en ander staatsorgane ten opsigte van 'n spesifieke voorgestelde ontwikkeling of aanwending van grond fasiliteer; of

(d) 'n raamwerk verskaf vir die koördinering van prosedurele vereistes vir aansoeke wat by of kragtens verordeninge, hierdie Wet of ander wetgewing opgelê is.

(3) 'n Geïntegreerde goedkeuring beoog in subartikel (2)*(a)* kan slegs goedgekeur word indien—

(a) 'n skriftelike ooreenkoms aangegaan is tussen die staatsorgane wat die geïntegreerde goedkeuring goedkeur;

(b) daar aan alle tersaaklike bepalings van toepaslike verordeninge, hierdie Wet en ander wetgewing voldoen is;

(c) die goedkeuring—

(i) die bepalings ingevolge waarvan dit goedgekeur is, vermeld; en

(ii) die staatsorgane wat dit goedgekeur het, vermeld; en

(d) die onderskeie besluite van die staatsorgane wat deel uitmaak van die geïntegreerde goedkeuring gelyktydig gepubliseer word in die media indien publisering daarvan vereis word.

(4) Die Provinsiale Minister kan regulasies maak of riglyne uitreik ten einde prosedurele vereistes te koördineer en in ooreenstemming te bring wat opgelê word ingevolge—

(a) hierdie Wet; en

(b) ander wetgewing in verband met aktiwiteite wat ooreenkomstig hierdie Wet goedkeuring vereis.

(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.

(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.

Deel 3:

Afdwinging, misdrywe en strawwe

Bevoegdhede om ondersoek uit te voer en om af te dwing

68. (1) 'n Werknemer aangewys deur die Departementshoof kan grond of 'n gebou betree ten einde—

(a) 'n ondersoek uit te voer om vas te stel of 'n persoon voldoen aan die bepalings of voorwaardes van 'n goedkeuring wat kragtens artikel 54 of 56(6) verleen is of 'n kennisgewing wat ingevolge artikel 70 uitgereik is;

(b) 'n ondersoek uit te voer om vas te stel of 'n persoon aan artikel 53(1) voldoen; en

(c) 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.

(2) Wanneer hy of sy 'n ondersoek beoog in subartikel 1*(a)* of *(b)* uitvoer, kan die aangewese werknemer—

(a) versoek dat enige rekord, dokument of item wat met die ondersoek sal help, verskaf word;

(b) afskrifte maak, of uittreksels neem, van enige dokument wat uit hoofde van paragraaf *(a)* verskaf is of wat op die betrokke grond of in die betrokke gebou gevind word en wat met die ondersoek verband hou; of

(c) by die verskaffing van 'n kwitansie, 'n rekord, dokument of ander item beoog in paragraaf *(b)* verwyder.

(3) Geen persoon mag 'n aangewese werknemer wat besig is om 'n ondersoek of 'n afdwingingsaksie uit te voer, verhinder of dwarsboom nie.

(4) 'n Ondersoek of afdwingingsaksie kragtens subartikel (1) moet op 'n redelike tyd plaasvind en nadat redelike kennis aan die eienaar of bewoner van die grond of gebou gegee is.

(5) Die aangewese werknemer kan die betrokke grond of gebou betree en ondersoek slegs met die toestemming van 'n persoon wat toestemming daarvoor kan verleen of kragtens die gesag van 'n lasbrief wat kragtens artikel 69 uitgereik is.

(6) Die aangewese werknemer moet, op versoek, identifikasie verskaf wat aantoon dat hy of sy deur die Departementshoof gemagtig is om die ondersoek of afdwingingsaksie uit te voer.

(7) Die aangewese werknemer word nie vereis om redelike of enige kennis te gee om grond of 'n gebou, behalwe 'n privaat woning, te betree nie, en kan sonder die toestemming van die eienaar of bewoner van sodanige grond of gebou en sonder 'n lasbrief enige ondersoek of afdwingingsaksie uitvoer indien—

(a) hy of sy op redelike gronde glo dat 'n lasbrief aan hom of haar uitgereik sal word by aansoek kragtens artikel 69; en

(b) die oponthoud van die verkryging van die lasbrief die doel van die ondersoek en afdwingingsaksie sal verydel.

(8) Die betreding van grond, 'n gebou of struktuur kragtens hierdie artikel moet met streng inagneming van behoorlikheid en orde uitgevoer word, wat inagneming van die volgende moet insluit:

(a) 'n persoon se reg tot respek vir, en beskerming van, sy of haar waardigheid;

(b) die reg tot vryheid en sekerheid van die persoon; en

(c) 'n persoon se reg tot persoonlike privaatheid.

Lasbrief

69. ’n Regter of ’n landdros, indien oortuig deur inligting onder eed dat—

(a) ’n aangewese werknemer betreding van grond of ’n gebou geweier is wat hy of sy geregtig is om te ondersoek of waarop hy of sy ’n afdwingingsaksie kan uitvoer;

(b) ’n aangewese werknemer redelikerwys voorsien dat betreding van grond of ’n gebou wat hy of sy geregtig is om te ondersoek of waarop hy of sy ’n afdwingingsaksie kan uitvoer, geweier sal word;

(c) daar redelike gronde is om te vermoed dat ’n oortreding beoog in artikel 68(1)*(a)* of *(b)* plaasgevind het en ’n ondersoek van die perseel waarskynlik inligting rakende daardie oortreding sal oplewer; of

(d) die ondersoek redelikerwys nodig is vir die doeleindes van hierdie Wet,

kan, by aansoek sonder kennisgewing, ’n lasbrief uitreik wat die aangewese werknemer en enige ander persoon wat in die lasbrief genoem word magtig om die grond of gebou te betree en ’n ondersoek of afdwingingsaksie uit te voer.

Kennisgewing om oortredings reg te stel

70. Indien ’n aangewese werknemer bevind dat ’n persoon—

(a) artikel 53(1) oortree of versuim om daaraan te voldoen; of

(b) versuim om aan die voorwaardes te voldoen wat opgelê is ten opsigte van ’n goedkeuring wat kragtens artikel 54 of 56(6) verleen is,

kan die aangewese werknemer ’n skriftelike kennisgewing aan daardie persoon gee wat van hom of haar vereis om die oortreding, of versuim om aan die voorwaardes te voldoen, reg te stel.

Inhoud van kennisgewing

71. Die kennisgewing bedoel in artikel 70 kan—

(a) die persoon aan wie dit gerig is gelas om iets op te hou doen of om die wyse waarop die persoon iets doen te verander;

(b) die persoon gelas om enige stappe te doen of maatreël te tref wat nodig is om die oortreding reg te stel en, waar nodig, ’n herhaling van die oortreding te voorkom;

(c) ’n tydperk vermeld waarbinne die persoon aan die kennisgewing moet voldoen;

(d) verklaar dat indien die persoon nie binne die vermelde tydperk aan die kennisgewing voldoen nie die Departementshoof op die koste van die persoon enige stappe wat nodig is kan doen om die oortreding reg te stel.

Regstelling van oortredings

72. (1) Die Departementshoof kan enige stappe doen of maatreël tref wat redelik is om ’n oortreding van voorwaardes van ’n goedkeuring wat kragtens artikel 54 of 56(6) verleen is of ’n oortreding van artikel 53(1) reg te stel, indien—

(a) die aangewese werknemer ’n skriftelike kennisgewing kragtens artikel 70 gegee het;

(b) die kennisgewing die tersaaklike aangeleenthede beoog in artikel 71 bevat;

(c) die persoon aan wie die kennisgewing gerig is nie aan die kennisgewing voldoen het binne die tydperk vermeld in die kennisgewing nie; en

(d) die spertyd vir die aanvra van ’n hersiening kragtens artikel 73(1) verby is of, indien ’n hersiening van die kennisgewing aangevra is, die besluit van die Provinsiale Minister is dat die Departementshoof die stappe moet doen of die maatreël moet tref.

(2) Die Departementshoof kan die koste van die stappe of maatreël wat kragtens hierdie artikel gedoen of getref is, verhaal van die persoon aan wie die kennisgewing beoog in subartikel (1)*(a)* gerig is.

Hersiening deur Provinsiale Minister

73. (1) ’n Persoon wat ’n kennisgewing kragtens artikel 70 gegee is kan, nie later as 14 dae nadat die kennisgewing ontvang is nie, skriftelik by die Provinsiale Minister aansoek doen om ’n hersiening van die kennisgewing.

(2) Na die ontvangs van ’n skriftelike versoek om ’n kennisgewing te hersien, moet die Provinsiale Minister, binne 21 dae van ontvangs van die versoek, die kennisgewing hersien en die kennisgewing bevestig, wysig of intrek.

Misdrywe en strawwe

74. (1) Dit is ’n misdryf vir—

(a) ’n persoon om artikel 53(1) of 68(3) te oortree of te versuim om daaraan te voldoen;

(b) ’n persoon om, in ’n grondontwikkelingsaansoek of in ’n appèl teen ’n besluit oor ’n grondontwikkelingsaansoek, besonderhede, inligting of antwoorde te verskaf met die wete dat die besonderhede, inligting of antwoorde onwaar, foutief of misleidend is of indien die persoon nie van mening is dat dit korrek is nie;

(c) ’n persoon om ’n voorwaarde wat ten opsigte van ’n goedkeuring bedoel in artikel 54 of 56(6) opgelê is, te oortree of te versuim om daaraan te voldoen;

(d) ’n persoon om die Departementshoof wat kragtens artikel 72 optree, te verhinder of te dwarsboom; of

(e) ’n persoon om te versuim om aan ’n kennisgewing wat kragtens artikel 70 gegee is, te voldoen.

(2) ’n Persoon wat skuldig is aan ’n misdryf kragtens subartikel (1) is by skuldigbevinding strafbaar met ’n boete of gevangenisstraf vir ’n tydperk van hoogstens 20 jaar of met beide ’n boete en sodanige gevangenisstraf.

(3) ’n Persoon wat kragtens hierdie Wet aan ’n misdryf skuldig bevind is en wat, na skuldigbevinding, voortgaan met die handeling ten opsigte waarvan hy of sy aldus skuldig bevind is, is skuldig aan ’n voortgesette misdryf en by skuldigbevinding strafbaar met ’n boete of gevangenisstraf vir ’n tydperk van hoogstens drie maande, of met beide ’n boete en sodanige gevangenisstraf, ten opsigte van elke dag waarop hy of sy aldus voortgaan of voortgegaan het met die handeling.

(4) Rakende misdrywe, boetes en strawwe, moet ’n munisipaliteit voorsiening maak vir minstens—

(a) misdrywe, boetes en strawwe ter afdwinging van die bepalings van—

(i) ’n soneringskema;

(ii) voorwaardes van goedkeuring beoog in artikel 40; en

(iii) artikels 30, 36(1) en 38(1);

(b) ondersoeke na beweerde oortredings van sy soneringskema;

(c) die uitreik van lasgewings om onwettige ontwikkeling of aanwending binne ’n redelike tydperk te staak, wat die volgende kan insluit:

(i) om die betrokke grond na sy oorspronklike vorm te rehabiliteer;

(ii) om aansoek te doen by die munisipaliteit om goedkeuring van die ontwikkeling van grond binne ’n tydperk bepaal deur die munisipaliteit; en

(iii) om ’n strydigheidsheffing te betaal indien die goedkeuring bedoel in subparagraaf (ii) verleen word; en

(d) die reg van ’n persoon wat redelikerwys deur ’n beweerde misdryf geraak word om die munisipaliteit te versoek om die beweerde misdryf te ondersoek en stappe beoog in paragraaf *(c)* te doen.

Deel 4:

Delegering

Delegering van bevoegdhede en opdraging van pligte

75. (1) Die Premier kan enige van sy of haar bevoegdhede of enige van sy of haar pligte ingevolge hierdie Wet aan die Provinsiale Minister delegeer of opdra.

(2) Die Provinsiale Minister kan enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet, behalwe die bevoegdheid om regulasies te maak, aan die Departementshoof delegeer of opdra.

(3) Die Departementshoof kan enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet delegeer of opdra aan—

(a) ’n werknemer in die Departement; of

(b) die bekleër van ’n spesifieke amp of posisie in die Departement.

(4) ’n Delegering of opdraging bedoel in subartikel (1), (2) of (3)—

(a) moet skriftelik wees;

(b) kan behoudens voorwaardes gemaak word;

(c) kan skriftelik ingetrek of gewysig word deur die Premier, die Provinsiale Minister of die Departementshoof, na gelang van die geval;

(d) kan die verdere delegering van daardie bevoegdheid of die verdere opdraging van daardie plig toelaat;

(e) verhoed nie die Premier, die Provinsiale Minister of die Departementshoof, na gelang van die geval, om daardie bevoegdheid uit te oefen of daardie plig uit te voer nie; en

(f) ontdoen nie die Premier, die Provinsiale Minister of die Departementshoof, na gelang van die geval, van die verantwoordelikheid rakende die uitoefening van die gedelegeerde bevoegdheid of die uitvoering van die opgedraagde plig nie.

Deel 5:

Regulasies en riglyne

Regulasies en riglyne

76. (1) Die Provinsiale Minister—

(a) moet regulasies maak rakende aangeleenthede wat voorgeskryf moet word;

(b) kan regulasies maak rakende enige aangeleentheid wat voorgeskryf kan word;

(c) kan regulasies maak, of riglyne uitreik, wat bestaanbaar is met hierdie Wet ten einde die implementering van hierdie Wet te vergemaklik, rakende—

(i) beginsels, norme en standaarde wat nodig is vir ordelike en gekoördineerde grondgebruikbeplanning, die bevordering van geïntegreerde sosio-ekonomiese ontwikkeling, die bepaling van die buitenste grens van stedelike uitbreiding of tipes ontwikkeling wat buite die buitenste grens van stedelike uitbreiding toegelaat of nie toegelaat word nie;

(ii) minimum standaarde vir aansoekprosedures;

(iii) minimum standaarde vir behuising wat met behulp van ’n staatsubsidie verskaf word, ingenieursdienste, energiegebruik, aanpassing by klimaatsverandering en maatskaplike fasiliteite;

(iv) minimum standaarde in verband met die omvang van grond benodig vir munisipaledienste-infrastruktuur of geriewe beoog in artikel 40(3) en die proporsionele bydrae deur ’n aansoeker tot munisipale openbare uitgawes ten opsigte daarvan;

(v) minimum standaarde vir voorwaardes in verband met die oordrag van grond of die betaling van geld beoog in artikel 40(2)*(b)*;

(vi) prosedures vir ondersoek- en afdwingingsaksies bedoel in artikels 68 tot 73.

(2) Die Provinsiale Minister kan verskillende regulasies ten opsigte van verskillende munisipaliteite maak volgens hul onderskeie vermoëns om die doelwitte van hierdie Wet te bereik.

Deel 6:

Herroeping van wette, en voorbehoude en oorgangsbepalings

Herroeping van wette

77. (1) Die wette vermeld in die Bylae word herroep vanaf die datum van inwerkingtreding van hierdie artikel en in die mate aangedui in die derde kolom van die Bylae.

(2) ’n Verwysing in enige ander wet of dokument na enige van die wette gelys in die Bylae word geag ’n verwysing na hierdie Wet en toepaslike verordeninge te wees.

Voorbehoude en oorgangsbepalings

78. (1) Enige goedkeuring, aanwysing, toestemming, reg of magtiging wat uitgereik, verleen of van krag is ingevolge 'n wet wat by hierdie Wet herroep is en wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan, bly van krag en word geag uitgereik of verleen te wees ooreenkomstig hierdie Wet en ingevolge ooreenkomstige bepalings van toepaslike verordeninge vir die tydperk waarvoor, en onderhewig aan die voorwaardes waarby, dit uitgereik of verleen is kragtens die herroepe wet totdat dit ingetrek, gewysig of verleng word ingevolge toepaslike verordeninge.

(2) Ondanks artikel 77, moet enige stappe of aansoek wat voor die inwerkingtreding van hierdie Wet gedoen is ingevolge 'n wet wat by hierdie Wet herroep is en wat onmiddellik voor die inwerkingtreding van hierdie Wet nog nie afgehandel is nie afgehandel word asof hierdie Wet nie van krag is nie.

(3) Die bepalings van die Wet op Landelike Gebiede in verband met die opmeting van grond en die uitreiking van 'n grondbrief of transportakte is steeds van toepassing op grond waarop daardie Wet onmiddellik voor die inwerkingtreding van hierdie Wet van toepassing was totdat alle handelinge in verband met die opmeting van grond en die registrasie van erwe ingevolge 'n goedgekeurde plan kragtens artikel 20(2)*(a)* van daardie wet, afgehandel is.

(4) Die bepalings van die Wet op Minder Formele Dorpstigting en die 1984-Regulasies is steeds van toepassing op grond waarop dit van toepassing was onmiddellik voor die inwerkingtreding van hierdie Wet of wat aangewys of goedgekeur is vir dorpstigting uit hoofde van subartikel (2) totdat alle handelinge in verband met die stigting van die dorpsuitbreiding en die registrasie van erwe afgehandel is.

(5) Na die inwerkingtreding van hierdie Wet, moet 'n wysiging van 'n uitlegplan of 'n algemene plan van 'n dorpsuitbreiding wat gestig is of goedgekeur is kragtens die Wet op Minder Formele Dorpstigting of die 1984-Regulasies of 'n wysiging van 'n plan wat kragtens artikel 20(2)*(a)* van die Wet op Landelike Gebiede voorberei is, deur die munisipaliteit ooreenkomstig hierdie Wet en ingevolge toepaslike verordeninge goedgekeur word.

(6) Die Beplanningsadviesraad wat kragtens artikel 33 van die Ordonnansie ingestel is, bly voortbestaan en kan aanbevelings wat onmiddellik voor die inwerkingtreding van hierdie Wet hangend of onder hande is en aangeleenthede wat uit hoofde van subartikel (2) vir 'n aanbeveling na hom verwys is, afhandel.

(7) Die Provinsiale Minister moet, by die afhandeling van die aangeleenthede beoog in subartikel (6), die Beplanningsadviesraad by kennisgewing in die *Provinsiale Koerant* ontbind.

(8) Ondanks subartikels (2) tot (5), kan die Provinsiale Minister, ten einde ordelike oorgangsreëlings te verseker, voorskryf dat 'n bepaalde kategorie aangeleenthede afgehandel moet word ooreenkomstig hierdie Wet en ingevolge toepaslike verordeninge en kan die Provinsiale Minister enige ander maatreël voorskryf om ordelike oorgangsreëlings te verseker.

Deel 7:

Kort titel en inwerkingtreding

Kort titel en inwerkingtreding

79. (1) Hierdie Wet heet die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

(2) Verskillende datums kan kragtens subartikel (1) ten opsigte van verskillende munisipale gebiede van die Provinsie bepaal word.

(3) Indien die Premier ander datums vir die inwerkingtreding van verskillende bepalings van hierdie Wet bepaal, moet 'n verwysing in 'n bepaling van hierdie Wet na die datum van inwerkingtreding van hierdie Wet uitgelê word as 'n verwysing na die datum deur die Premier bepaal vir die inwerkingtreding van daardie bepaling in die betrokke munisipale area.

BYLAE

WETTE HERROEP BY ARTIKEL 77

Nommer en jaar	**Kort titel**	**Omvang van herroeping**
Wet 84 van 1967	Wet op Opheffing van Beperkings, 1967	Die geheel vir sover aan die Provinsie opgedra
Wet 8 van 2007	Wes-Kaapse Wysigingswet op Opheffing van Beperkings, 2007	Die geheel
Wet 88 van 1967	Wet op Fisiese Beplanning, 1967	Artikels 8, 9, 9A en 12 vir sover aan die Provinsie opgedra
Ordonnansie 20 van 1974	Munisipale Ordonnansie, 1974	Artikels 137 en 138
Ordonnansie 18 van 1976	Ordonnansie op Afdelingsrade, 1976	Artikels 138 en 139
Wet 4 van 1984	Wet op die Ontwikkeling van Swart Gemeenskappe, 1984	Artikels 52 en 57B vir sover aan die Provinsie opgedra
Ordonnansie 15 van 1985	Ordonnansie op Grondgebruikbeplanning, 1985	Die geheel
Proklamasie 100/1987 van 30 Oktober 1987 (*Provinsiale Koerant* 4504)	Wysigingsproklamasie 100/1987	Die geheel
Proklamasie 6/1992 van 7 Februarie 1992 (*Provinsiale Koerant* 4734)	Wysigingsproklamasie 6/1992	Die geheel
Proklamasie R.168/1994 van 31 Oktober 1994 (*Staatskoerant* 16049)	Wysigingsproklamasie R.168/1994	Die geheel
Wet 5 van 2001	Wes-Kaapse Wet op die Wysiging van die Ordonnansie op Grondgebruikbeplanning, 2001	Die geheel
Wet 7 van 2002	Wes-Kaapse Ordonnansie op Grondgebruikbeplanning, 1985, Wysigingswet, 2002	Die geheel
Wet 6 van 2003	Ordonnansie op Grondgebruikbeplanning, 1985, Wysigingswet, 2003	Die geheel
Wet 2 van 2004	Wes-Kaapse Ordonnansie op Grondgebruikbeplanning, 1985, Wysigingswet, 2004	Die geheel
Wet 5 van 2005	Ordonnansie op Grondgebruikbeplanning, 1985, Wysigingswet, 2005	Die geheel

Nommer en jaar	**Kort titel**	**Omvang van herroeping**
Wet 1 van 2009	Wes-Kaapse Wysigingswet op die Ordonnansie op Grondgebruikbeplanning, 1985, 2009	Die geheel
Wet 2 van 2011	Wes-Kaapse Wysigingswet op die Ordonnansie op Grondgebruikbeplanning, 2011	Die geheel
Wet 3 van 2011	Wes-Kaapse Tweede Wysigingswet op die Ordonnansie op Grondgebruikbeplanning, 2011	Die geheel
Goewerments-kennisgewing R.1897/1986 gepubliseer in *Staatskoerant* 10431 van 12 September 1986	Regulasies Betreffende Dorpstigting en Grondgebruik ingevolge die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984	Die geheel vir sover op bestaande dorpsbeplannings- en soneringskemas bedoel in artikel 33 van toepassing
Wet 9 van 1987	Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987	Die geheel vir sover aan die Provinsie opgedra
Provinsiale Kennisgewing 733/1989 gepubliseer in *Provinsiale Koerant* 4606 van 22 September 1989	Die Instelling en Wysiging van Dorpsbeplanningskemas vir die Provinsie Kaap die Goeie Hoop (Regulasies ingevolge die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984)	Die geheel
Wet 113 van 1991	Wet op Minder Formele Dorpstigting, 1991	Die geheel vir sover dit aan die Provinsie opgedra is
Wet 6 van 2007	Wes-Kaapse Wysigingswet op Minder Formele Dorpstigting, 2007	Die geheel
Wet 7 van 1999	Wes-Kaapse Wet op Beplanning en Ontwikkeling, 1999	Die geheel

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP GRONDGEBRUIKBEPLANNING, 2014

1. AGTERGROND

1.1 Die Wes-Kaapse Wetsontwerp op Grondgebruikbeplanning, 2014 (die Wetsontwerp), reageer op die behoefte aan 'n gemoderniseerde en doelmatige stelsel vir grondgebruikbeplanning wat volhoubare ontwikkeling in die Provinsie Wes-Kaap (die Provinsie) fasiliteer. Die Wetsontwerp word genoodsaak deur die behoefte aan wetshervorming ten opsigte van grondgebruikbeplanning wat steeds deur wetgewing gereguleer word wat die Grondwet van die Republiek van Suid-Afrika, 1996 (die Grondwet), voorafgaan. Van belang in hierdie hervorming is die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 16 van 2013), wat op 2 Augustus 2013 goedgekeur is.

1.2 Die Grondwet versprei funksionele gebiede wat met beplanning verband hou oor al drie regeringsfere. Die Wetsontwerp maak voorsiening vir die regulering van provinsiale beplanning, streeksbeplanning en -ontwikkeling, stedelike en landelike ontwikkeling, die regulering, ondersteuning en monitering van munisipale beplanning en die regulering van openbare plekke en munisipale paaie in ooreenstemming met hierdie indeling.

2. DOEL VAN WETSONTWERP

2.1 Die Wetsontwerp is op sewe doelwitte toegespits. Eerstens konsolideer dit wetgewing in die Provinsie rakende provinsiale beplanning, streeksbeplanning en -ontwikkeling, stedelike en landelike ontwikkeling, die regulering, ondersteuning en monitering van munisipale beplanning en die regulering van openbare plekke en munisipale paaie wat uit onderverdelings voortspruit. Tweedens maak dit voorsiening vir provinsiale ruimtelike ontwikkelingsraamwerke. Derdens bepaal dit minimum standaarde vir, en die doelmatige koördinering van, ruimtelike ontwikkelingsraamwerke. Vierdens bepaal dit minimum norme en standaarde vir doeltreffende munisipale ontwikkelingsbestuur. Vyfdens reguleer dit provinsiale ontwikkelingsbestuur. Sesdens bepaal dit beginsels vir grondgebruikbeplanning, en laastens herroep dit sekere oubedeling-wette.

3. INHOUD VAN WETSONTWERP

3.1 HOOFSTUK I: UITLEG

Hoofstuk I bevat die woordomskrywing.

3.2 HOOFSTUK II: WERKSAAMHEDE VAN MUNISIPALITEITE EN PROVINSIALE REGERING

3.2.1 Vir die doeleindes van die Wetsontwerp sit Hoofstuk II 'n breedvoerige indeling van verantwoordelikhede uiteen tussen die provinsiale regering en munisipaliteite in die Provinsie.

3.2.2 Munisipaliteite is verantwoordelik vir grondgebruikbeplanning in hul munisipale gebiede. Metropolitaanse en plaaslike munisipaliteite moet m instens tersaaklike aspekte rakende soneringskemas, die oorweging van grondgebruiksaansoeke en die afdwinging van hul verordeninge en besluite ten opsigte van grondgebruikbeplanning reguleer.

3.2.3 Die provinsiale regering is verantwoordelik vir die aanneming van 'n provinsiale ruimtelike ontwikkelingsraamwerk en, waar van toepassing, provinsiale streeks-ruimtelike ontwikkelingsraamwerke. Die provinsiale regering moet voorts munisipale grondgebruikbeplanning reguleer, ondersteun en moniteer om toe te sien dat munisipaliteite hul grondgebruikbeplanningswerksaamhede doeltreffend verrig.

3.2.4 Die provinsiale regering is ook verantwoordelik vir besluite oor grondontwikkelingsaansoeke wat ’n wesenlike uitwerking op die ordelike, gekoördineerde of harmoniese ontwikkeling van ’n streek of die Provinsie of die algemene welsyn van die inwoners van ’n streek of die Provinsie sal hê weens die aard of skaal van die voorgestelde grondgebruik of die kumulatiewe uitwerking van veelvoudige ontwikkelings. Sodanige ontwikkelings sal sowel munisipale as provinsiale goedkeuring benodig.

3.3 HOOFSTUK III: RUIMTELIKE BEPLANNING

3.3.1 Die Wetsontwerp vereis vooruitbeplanning in die provinsiale en munisipale regeringsfere. Die provinsiale regering sal ’n provinsiale ruimtelike ontwikkelingsraamwerk (PROR) aanneem en munisipaliteite sal munisipale ruimtelike ontwikkelingsraamwerke (MROR’e) aanneem. In sommige gevalle kan die provinsiale regering ’n provinsiale streeks- ruimtelike ontwikkelingsraamwerk (PSROR) saamstel.

3.3.2 Die opstel en goedkeuring van ’n MROR word deur die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), gereguleer, wat munisipaliteite verplig om ruimtelike ontwikkelingsraamwerke as ’n deel van geïntegreerde ontwikkelingsplanne aan te neem. Hoofstuk III bepaal verdere minimum standaarde vir die opstel en aanneming van ruimtelike ontwikkelingsraamwerke om doeltreffende ruimtelike beplanning deur munisipaliteite te verseker. Die Wetsontwerp bepaal minimum vereistes vir munisipale ruimtelike ontwikkelingsraamwerke met betrekking tot die inhoud daarvan om ooreenstemming met provinsiale strategieë en ontwikkelingsplanne te verseker.

3.3.3 Die Wetsontwerp maak voorsiening vir munisipaliteite om te kies om óf interregeringsloodskomitees in te stel, waarop die provinsiale regering verteenwoordig sal word gedurende die opstel van ’n MROR, óf om verpligtende kommentaar deur die Provinsiale Minister te oorweeg voordat ’n munisipale ruimtelike ontwikkelingsraamwerk deur ’n munisipaliteit aangeneem word. Hierdie bepalings van die Wetsontwerp verseker dat die provinsiale regering die geleentheid gegun word om kommentaar te lewer op ’n MROR voor die aanneming of wysiging daarvan, wat ’n regverdigbare uitoefening van die provinsiale regering se bevoegdheid is om toe te sien dat munisipaliteite hul uitvoerende gesag ten opsigte van munisipale beplanning doeltreffend uitoefen. Hierdie bepalings sal voorts bydra tot die ewewig van ekonomiese, maatskaplike en omgewingsbelange in die toekomstige vorm van ’n bepaalde gebied.

3.4 HOOFSTUK IV: MUNISIPALE ONTWIKKELINGSBESTUUR

3.4.1 Hoofstuk IV reguleer die verskeie instrumente vir munisipale ontwikkelingsbestuur. Dit stel minimum standaarde vir die wyse waarop munisipaliteite soneringskemas moet opstel, aanneem en wysig. Die Wetsontwerp maak voorsiening vir munisipaliteite om te kies om óf interregeringsloodskomitees in te stel, waarop die Provinsie verteenwoordig sal word gedurende die opstel of wysiging van ’n soneringskema óf om verpligtende kommentaar deur die Provinsiale Minister te oorweeg voordat ’n soneringskema deur ’n munisipaliteit aangeneem of gewysig word. Hierdie bepalings van die Wetsontwerp verseker dat die Provinsie die geleentheid gegun word om kommentaar te lewer op ’n soneringskema voor die aanneming of wysiging daarvan en is ’n regverdigbare uitoefening van die Provinsie se bevoegdheid om toe te sien dat munisipaliteite hul uitvoerende gesag ten opsigte van munisipale beplanning doeltreffend uitoefen.

3.4.2 Hierdie Hoofstuk bepaal voorts minimum vereistes vir die keuselys van instrumente vir ontwikkelingsbestuur, naamlik hersonering, afwyking, vergunningsgebruik, onderverdeling, konsolidering en die opheffing, opskorting of wysiging van beperkende voorwaardes. Die Wetsontwerp bepaal minimum standaarde en vereistes waaraan munisipaliteite moet voldoen wanneer hulle hul eie reëls en prosedures ten opsigte van hierdie instrumente aanneem.

3.4.3 Die Wetsontwerp bepaal minimum standaarde vir ontwikkelingsbestuur. Hierdie standaarde handel met kwessies soos die minimum inligting wat deur aansoekers ingedien moet word, die publisering en betekening van kennisgewings om voorsiening te maak vir openbare deelname aan besluitneming, oorlegpleging met ander staatsorgane, gelde vir grondgebruikaansoeke, die grondslag van evaluering van grondgebruikaansoeke, kennisgewing van munisipale besluite en die opskorting van besluite hangende appèlle.

3.4.4 Die Wetsontwerp bepaal voorts die grondwetlike bevoegdhede van die Provinsiale Minister ten opsigte van ondersteuning en monitering, wat hom of haar (en sy of haar departement) die reg gee om kommentaar oor sekere grondgebruikaansoeke en appèlle te lewer voordat dit deur munisipaliteite oorweeg word. Sodanige kommentaar sal munisipaliteite op hul hoede stel vir enige grondliggende probleme met aansoeke en appèlle wat vereis dat dit geweier word of vir ander probleme waaraan aandag gegee moet word deur die oplegging van gepaste voorwaardes van goedkeuring. Hierdie vereiste in die Wetsontwerp, dat die provinsiale regering die geleentheid gegun word om kommentaar te lewer, is 'n regverdigbare uitoefening van sy bevoegdheid om toe te sien dat munisipaliteite hul uitvoerende gesag ten opsigte van munisipale beplanning doeltreffend uitoefen. Dit sal ook onnodige appèlle en die oorlading van howe met hersieningsake voorkom.

3.5 HOOFSTUK V: PROVINSIALE ONTWIKKELINGSBESTUUR

3.5.1 Hoofstuk V omskryf en reguleer die bevoegdheid van die provinsiale regering om grondontwikkeling goed te keur wat 'n wesenlike uitwerking op die ordelike, gekoördineerde of harmoniese ontwikkeling van 'n streek of die Provinsie sal hê of die algemene welsyn van die inwoners van 'n streek of die Provinsie weens die aard of skaal van die voorgestelde grondgebruik of die kumulatiewe uitwerking van veelvoudige ontwikkelings. Dit omskryf die tipes ontwikkeling wat die goedkeuring van die Departementshoof benodig (benewens die goedkeuring van die munisipaliteit). Die Departementshoof oorweeg slegs daardie aspekte van die ontwikkeling wat provinsiale beplanningsbelange raak. Die provinsiale goedkeuring word benodig wanneer die ontwikkeling van 'n skaal is of 'n impak sal hê wat munisipale grense oorskry. Die Provinsiale Minister kan voorgeskrewe kategorieë van grondontwikkeling daarvan vrystel om provinsiale goedkeuring te benodig.

3.5.2 Ten einde administratiewe rompslomp te minimaliseer, bepaal die Wetsontwerp dat prosedures vir provinsiale besluitneming kragtens hierdie Hoofstuk geïntegreer moet word met die prosedures vir munisipale besluitneming beoog in Hoofstuk IV.

3.5.3 Die Wetsontwerp bepaal ook 'n reg tot appèl na die Provinsiale Minister teen 'n besluit van die Departementshoof. Provinsiale goedkeurings verval indien die goedgekeurde grondontwikkeling nie binne 10 jaar vanaf die datum waarop die goedkeuring in werking getree het, 'n aanvang neem nie.

3.6 HOOFSTUK VI: BEGINSELS VIR GRONDGEBRUIKBEPLANNING

Hoofstuk VI bepaal beginsels vir grondgebruikbeplanning wat dwarsoor die Provinsie van toepassing is. Hierdie beginsels weerspieël die besorgdheid van die provinsiale regering oor kwessies soos ruimtelike geregtigheid en volhoubaarheid, doelmatigheid, goeie administrasie en ruimtelike veerkragtigheid. Staatsorgane moet hierdie beginsels in ag neem wanneer hulle beplanning reguleer, planne goedkeur of besluite oor grondgebruik neem.

3.7 HOOFSTUK VII: VRYSTELLINGS EN MAGTIGINGS

3.7.1 Hoofstuk VII verleen aan die Provinsiale Minister die bevoegdheid om munisipaliteite van sekere bepalings van die Wetsontwerp vry te stel ten einde die administratiewe of finansiële las op munisipaliteite te verlig en munisipaliteite die magtiging te gee om in noodsituasies van die minimum standaarde wat die Wetsontwerp stel, af te wyk.

3.7.2 Hierdie Hoofstuk bepaal verder minimum standaarde waaraan munisipaliteite moet voldoen wanneer hulle vrystellings in verband met onderverdelings en konsoliderings bepaal.

3.8 HOOFSTUK VIII: BEPLANNINGSADVIESKOMITEE

3.8.1 Hoofstuk VIII verleen aan die Provinsiale Minister die bevoegdheid om ’n Beplanningsadvieskomitee in te stel ten einde raad te gee wat nodig kan wees oor die toepassing van hierdie Wetsontwerp en sy regulasies.

3.8.2 Hierdie Hoofstuk bepaal die samestelling van die Beplanningsadvieskomitee, vereistes in verband met die kwalifikasies en ondervinding van die lede, die ampstermyn en diensvoorwaardes van die lede, en maak voorsiening vir vergaderings van die komitee.

3.9 HOOFSTUK IX: ALGEMENE BEPALINGS

3.9.1 Hoofstuk IX vereis van ’n munisipaliteit, die Provinsiale Minister en die Departementshoof om ’n skriftelike evaluering deur ’n professionele of tegniese beplanner wat ingevolge die Wet op die Beplanningsprofessie, 2002 (Wet 36 van 2002), geregistreer is, te oorweeg voordat hy besluit of kommentaar lewer oor sekere aangeleenthede oor grondgebruikbeplanning. Die tipe aansoeke en aangeleenthede wat in hierdie bepaling van die Wetsontwerp vermeld word, raak kwessies wat professionele insig benodig. Die provinsiale regering kan, as ’n deel van sy toesighoudende werksaamheid, regmatig vereis dat munisipaliteite professionele beplanningsinsette oorweeg voordat hulle oor hierdie aangeleenthede besluit. In hierdie verband bepaal die Wetsontwerp dat munisipaliteite wat nie die dienste van ’n geregistreerde beplanner tot hul beskikking het nie die Provinsie kan nader om ’n professionele beplanner aan te stel om ’n verslag te verskaf. Die bepaling beperk nie die diskresie van ’n munisipaliteit, of ’n beplanningsbeampte met gedelegeerde bevoegdheid, om in stryd met die aanbeveling van die geregistreerde beplanner oor aangeleenthede te besluit nie. Die bepaling skryf ook nie voor welke kategorie van persone grondgebruikaansoeke kan saamstel nie.

3.9.2 Hierdie Hoofstuk bepaal ook dat daar gepoog moet word om die veelvoudige prosedures wat op ’n enkele ontwikkeling van toepassing is, te integreer deur middel van ooreenkomste, geïntegreerde goedkeurings en gesamentlike openbare en interregeringsoorlegpleging. Die Wetsontwerp laat ook toe dat besluite oor aansoeke geneem word deur middel van ’n proses wat ander wetgewing voorskryf indien daardie proses aan die vereistes van toepaslike verordeninge en hierdie Wetsontwerp voldoen.

3.9.3 Hoofstuk IX bepaal verder provinsiale bevoegdhede om ondersoeke uit te voer en voldoening af te dwing aan die vereistes wat verband hou met goedkeurings deur die Departementshoof van grondontwikkeling. Die Wetsontwerp stel in hierdie verband die daarstelling van misdrywe en strawwe voor.

3.9.4 Die Wetsontwerp maak voorsiening vir die delegering van bevoegdhede en die opdraging van pligte deur die Premier, die Provinsiale Minister en die Departementshoof.

3.9.5 Hierdie Hoofstuk verleen verder aan die Provinsiale Minister die bevoegdheid om regulasies te maak ten einde die implementering van die Wetsontwerp wanneer dit van krag is te fasiliteer.

3.9.6 Hierdie Hoofstuk bepaal verder die herroeping van oubedeling-beplanningswetgewing, sekere voorbehoude en oorgangsreëlings, en maak voorsiening vir die datum van inwerkingtreding van die Wet om te verskil in verskeie munisipale gebiede.

4. FINANSIËLE IMPLIKASIES

Daar sal in toekomstige boekjare vir die provinsiale werksaamheid ten opsigte van grondgebruikbeplanning begroot word.

5. OORLEGPLEGING

5.1 ’n Konsepwetsontwerp is in die *Provinsiale Koerant* vir kommentaar gepubliseer.

5.2 Die volgende partye is ook geraadpleeg:
Provinsiale departemente
Plaaslike Regering
Georganiseerde Plaaslike Regering
Die Nasionale Departement van Landelike Ontwikkeling en Grondhervorming
Rolspelers in die beplanningsbedryf

6. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir beplanning is oortuig dat al die bepalings van die Wetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

UMTHETHO OSAYILWAYO

Onjongo yawo ikukuhlanganisa imithetho ephathelele kucwangciso lwephondo, kucwangciso nophuhliso lommandla, kuphuhliso lwemimandla yasezidolophini neyasemaphandleni, kulawulo lwenkxaso kwakunye nokubekwa kweliso kucwangciso loomasipala nakulawulo lweendawo zikawonke-wonke neendlela zikamasipala olusukela kulwahlulwa-hlulo lomhlaba; ukubonelela ngezikhokelo zophuhliso lomhlaba zephondo eli; ukubonelela ngobuncinane bezimiselo nemigangatho yezikhokelo zophuhliso lomhlaba nangonxibelelaniso lwezikhokelo zophuhliso olunempumelelo; ukubonelela ngobuncinane bezimiselo nemigangatho yolawulo lophuhliso lokumisela ifuthe lomhlaba kwezolimo loomasipala; ukubeka izikhokelo zolawulo lophuhliso lwephondo eli; ukubonelela ngeenqobo zocwangciso lokusetyenziswa komhlaba; ukutshitshisa imithetho yolawulo lwamandulo ethile; nangokubonelela nangeminye imiba enxulumene nale.

NGOKO KE KUWISWA UMTHETHO yiPalamente yePhondo leNtshona Koloni ngolu hlobo lulandelayo:-

UKUCWANGCISWA KWAMACANDELO OLUHLU (ISHEDYULI)

ISAHLUKO I

UTOLIKO

1. Iinkcazo-magama

ISAHLUKO II

IMISEBENZI YOOMASIPALA NORHULUMENTE WEPHONDO

2. Imisebenzi yoomasipala
3. Imisebenzi kaRhulumente wePhondo

ISAHLUKO III

UCWANGCISO LOMHLABA

Isigaba 1

Isikhokelo sophuhliso lomhlaba sePhondo

4. Isikhokelo sophuhliso lomhlaba sePhondo
5. Uqulunqo, ulwamkelo, ukwenziwa izilungiso okanye ukuvandlakanywa kwesikhokelo sophuhliso lomhlaba sePhondo
6. Usungulo lokwenziwa kwezilungiso kwisikhokelo sophuhliso lomhlaba sePhondo

Isigaba 2

Izikhokelo zophuhliso lomhlaba zemimandla yePhondo

7. Izikhokelo zophuhliso lomhlaba zemimandla yePhondo
8. Uqulunqo, ulwamkelo, ukwenziwa kwezilungiso, ukurhoxiswa okanye ukuhlolwa kwezikhokelo zophuhliso lomhlaba zemimandla yePhondo
9. Usungulo lokwenziwa kwezilungiso okanye ukurhoxiswa kwezikhokelo zophuhliso lomhlaba zemimandla yePhondo

Isigaba 3

Izikhokelo zophuhliso lomhlaba zoomasipala

10. Izikhokelo zophuhliso lomhlaba zoomasipala
11. Ulwamkelo okanye ukwenziwa kwezilungiso kwezikhokelo zophuhliso lomhlaba zoomasipala
12. Ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente
13. Inkqubo ngaphandle kwekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente
14. Ukungeniswa kwezikhokelo zophuhliso lomhlaba zoomasipala
15. Imfano phakathi kwezikhokelo zophuhliso lomhlaba zoomasipala

Isigaba 4

Izicwangciso zexeshana nangokubanzi

16. Izicwangciso zezinto ezilulwakhiwo (Structure plans)
17. Ukuqhutywa kwezikhokelo zophuhliso lomhlaba
18. Ukupapashwa kwezikhokelo zophuhliso lomhlaba
19. Uthotyelo lwezikhokelo zophuhliso lomhlaba nezincwangciso zezinto ezilulwakhiwo okanye imfano yazo nophambuko kuzo
20. Amarekhodi ezikhokelo zophuhliso lomhlaba
21. Ukumanyaniswa kwezinye izicwangciso, imigaqo-nkqubo okanye izikhokelo

ISAHLUKO IV

ULAWULO LOPHUHLISO LOOMASIPALA

Isigaba 1

Izikim zesimo somhlaba

22. Isikim semo yomhlaba kwingingqi kamasipala
23. Iinjongo zezikim zemo yomhlaba
24. Iziqulatho zezikim zemo yomhlaba
25. Ukuqulunqwa nokwenziwa izilungiso kwezikim zemo yomhlaba
26. Ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente
27. Inkqubo ngaphandle kwekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente
28. Ukungeniswa kwezikim zemo yomhlaba
29. Ukuqalisa kokusebenza kwezikim zemo yomhlaba
30. Ukusetyenziswa komhlaba okuvunyelweyo
31. Amarekhodi ezikim zemo yomhlaba
32. Ukuqhutywa kwezikim zemo yomhlaba

Isigaba 2

Izikim ezikhoyo zocwangciso lweedolophu nobume bomhlaba

33. Izikim ezikhoyo zocwangciso lweedolophu nobume bomhlaba

Isigaba 3

Izimo zomhlaba namanye amalungelo osetyenziso

34. Amalungelo osetyenziso
35. Utshintsho lwemo yomhlaba, uphambuko okanye usetyenziso ngemvumelwano

Isigaba 4

Ulwahlulwa-hlulo lomhlaba

36. Ulwahlulwa-hlulo lomhlaba

Isigaba 5

Iindawo zikawonke-wonke

37. Iindawo zikawonke-wonke

Isigaba 6

Uhlanganiso lweziza zomhlaba

38. Uhlanganiso lweziza zomhlaba

Isigaba 7

Imiqathango enyinayo

39. Ukususwa, ukumiswa kwexeshana okanye ukwenziwa kwezilungiso kwimiqathango enyinayo

Isigaba 8

Imiqathango

40. Imiqathago
41. Ukwenziwa kwezilungiso kwimiqathango

Isigaba 9

Iinkqubo nokwenziwa kwezigqibo

42. Ubuncinane beenkcukacha ezifanele ukungeniswa
43. Ukupapashwa kwezaziso
44. Ukuhanjiswa kwezaziso
45. Uvakaliso lwezimvo lwephondo ngezicelo zokusetyenziswa komhlaba
46. Ubude bexesha lokwenziwa kwezigqibo ekungenakudlulwa kubo
47. Uvakaliso lwezimvo lwezigqeba zikarhulumente
48. Iintlawulo zezicelo zokusetyenziswa komhlaba
49. Iziseko zovandlakanyo lwezicelo zokusetyenziswa komhlaba
50. Ukwaziswa kwezigqibo zoomasipala
51. Izibheno ngezigqibo zoomasipala
52. Uvakaliso lwezimvo zePhondo ngezibheno

ISAHLUKO V

ULAWULO LOPHUHLISO KWIPHONDO

53. Ukuvunywa kophuhliso lomhlaba liPhondo
54. Isigqibo seNtloko yeSebe
55. Iziseko zovandlakanyo lwezicelo zokuphuhliswa komhlaba
56. Ukubhenela kuMphathiswa wePhondo
57. Ukuphelelwa kolwamkelo lophuhliso lomhlaba

ISAHLUKO VI

IINQOBO ZOCWANGCISO LOKUSETYENZISWA KOMHLABA

58. Ukusetyenziswa kweenqobo zocwangciso lokusetyenziswa komhlaba
59. Iinqobo zocwangciso lokusetyenziswa komhlaba

ISAHLUKO VII

ULWAPHULELO NOGUNYAZISO

60. Ulwaphulelo nogunyaziso lwePhondo
61. Ulwaphulelo olunxulumene nolwahlulwa-hlulo nohlanganiso

ISAHLUKO VIII

IKOMITI YEENGCEBISO NGOCWANGCISO

62. IKomiti yeeNgcebiso ngoCwangciso
63. Amalungu eKomiti
64. Ixesha lobulungu nemiqathango yenkonzo
65. Iintlanganiso zeKomiti

ISAHLUKO IX

IZIBONELELO NGOKUBANZI

Isigaba 1

Uvandlakanyo lwemiba yocwangciso lokusetyenziswa komhlaba

66. Uvandlakanyo nezindululo zabacwangcisi ababhalisiweyo

Isigaba 2

Iinkqubo zezigqibo ezimanyanisiweyo

67. Iinkqubo zezigqibo ezimanyanisiweyo

Isigaba 3

Uqinisekiso lothotyelo, izigqitho nezohlwayo

68. Amagunya okuhlola nokuqinisekisa uthotyelo
69. Iwaranti
70. Isaziso sokulungisa utyeshelo
71. Iziqulatho zesaziso
72. Ukulungisa utyeshelo
73. Uqwalaselo nguMphathiswa wePhondo
74. Izigqitho nezohlwayo

Isigaba 4

Unikezelo lwamagunya

75. Ukunikezelwa kwamaguya nolwabiwo lwemisebenzi

Isigaba 5

Imigaqo nezikhokelo

76. Imigaqo nezikhokelo

Isigaba 6

Utshitshiso lwemithetho, nosindiso nezibonelelo zexeshana

77. Utshitshiso lwemithetho
78. Usindiso nezibonelelo zexeshana

Isigaba 7

Isihlokwana esifutshane nokuqalisa

79. Isihlokwana esifutshane nokuqalisa

ULUHLU (ISHEDYULI)

IMITHETHO ETSHITSHISWE LICANDELO 77

ISAHLUKO I

UTOLIKO

Iinkcazo-magama

1. Kulo Mthetho, ngaphandle kwalapho imeko elisetyenziswe kuyo igama ilinika enye intsingiselo—

"isiphathamandla sezibheno" sithetha isiphathamandla sikamasipala esiqwalasela isibheno ngesigqibo sikamasipala esikhankanywa kwiSahluko IV;

"Ikomiti" ithetha iKomiti yeeNgcebiso ngoCwangciso enokuthi imiselwe phantsi kwecandelo 62;

"isiphathamandla esisegunyeni" sithetha umasipala, iKhabhinethi yePhondo, iNkulumbuso yePhondo, uMphathiswa wePhondo okanye iNtloko yeSebe, ngokwalowo ke ufanelekileyo, othi aqwalasele isicelo okanye enze umsebenzi, njengoko kuchazwa kulo Mthetho;

"umntu osegunyeni" uthetha umntu onokuthi enze isicelo sokusetyenziswa komhlaba, njengoko kubekwa ngumasipala lowo uchaphazelekayo;

"ukuthobela" ngokuphathelele kwisikhokelo sophuhliso lomhlaba, kwisicelo sokusetyenziswa komhlaba okanye kwisicelo sophuhliso lomhlaba, unalaa ntsingiselo ichazwe kwicandelo 19(1);

"ukusetyenziswa ngemvumelwano" kuthetha ukusetyenziswa komhlaba okuvunyelwe ngokwemiqathango yesimo somhlaba esithile ngemvume kamasipala;

"ukufana" ngokuphathelele kwisikhokelo sophuhliso lomhlaba, kwisicelo sokusetyenziswa komhlaba okanye kwisicelo sophuhliso lomhlaba, unalaa ntsingiselo ichazwe kwicandelo 19(2);

"uMgaqo-siseko" uthetha uMgaqo-siseko weRiphablikhi yoMzantsi Afrika, 1996;

"ubaluleko ngokwenkcubeko" luthetha ubaluleko ngokwenkcubeko njengoko luchazwa kwicandelo 2 loMthetho oyi*National Heritage Resources Act*, 1999 (uMthetho 25 ka-1999);

"uMthetho oyi*Deeds Registries Act*" uthetha uMthetho oyi*Deeds Registries Act*, 1937 (uMthetho 47 ka-1937);

"iSebe" lithetha isebe lephondo elijongene nocwangciso lokusetyenziswa komhlaba;

"uphambuko" luthetha ubungakanani bophuhliso obutshintshiweyo obuvunywe isigxina okanye ilungelo lokusebenzisa umhlaba ngenjongo eyamkelwe okwexeshana;

"umsebenzi okhethiweyo" uthetha umsebenzi weSebe eli okhethwe phantsi kwemiqathango yecandelo 68(1) ukuba aqhube uhlolo nenyathelo lokuqinisekisa uthotyelo;

"ulawulo lophuhliso" luthetha ulawulo lophuhliso lomhlaba ngokwamanyathelo achazwe kwiZahluko IV no-V, nakwiZahluko VI ukuya kwese-IX apho zichaphazeleka khona kuzo iZahluko IV no-V;

"ubungakanani bophuhliso" buthetha isibonelelo okanye unyino kwisikim sobume bomhlaba obuchaza ubungakanani obuvumelekileyo baloo mhlaba usetyenziswayo ngokwemiqathango yobume bomhlaba;

"idayagram" ithetha idayagram njengoko ichazwa kwicandelo 1 loMthetho oyi*Land Survey Act*, 1997 (uMthetho 8 ka-1997);

"umasipala wesithili" uthetha umasipala wesithili njengoko echazwa kwicandelo 1 loMthetho oyi*Local Government: Municipal Structures Act*, 1998 (uMthetho 117 ka-1998);

"iinkonzo zobunjineli" zithetha inkqubo yobonelelo ngamanzi, ngogutyulo lwelindle, ngombane, ngeendlela zikamasipala, ngemisele yamanzi emvula nangerhasi/ngegesi, neyokuqokelelwa nokuthuthwa kwenkunkuma, inkqubo leyo eyimfuneko kuphuhliso lomhlaba;

"indalo nokuyingqongileyo" ithetha indawo njengoko ichazwa kwicandelo 1 loMthetho oyi*National Environmental Management Act,* 1998 (uMthetho 107 ka-1998);

"isicwangciso ngokubanzi" sithetha isicwangciso ngokubanzi njengoko sichazwa kwicandelo 1 loMthetho oyi*Land Survey Act*, 1997;

"iNtloko yeSebe" ithetha intloko yesebe lephondo elijongene nocwangciso lokusetyenziswa komhlaba;

"ubutyebi belifa lemveli" buthetha indawo enobaluleko ngokwenkcubeko;

"inkonzo yobunjineli yangaphakathi" ithetha inkonzo yobunjineli kamasipala eqhutywa ngumasipala okanye umniki-nkonzo ngaphakathi kwemida yengingqi ekhankanywa kwisicelo sokusetyenziswa komhlaba neyimfuneko ekusetyenzisweni nasekuphuhlisweni komhlaba;

"umhlaba" uthetha isiza okanye inxenye yefama, kwaye ubandakanya nalo naluphi na uphuculo okanye isakhiwo kuloo mhlaba kunye naliphi na ilungelo elililo kumhlaba;

"uphuhliso lomhlaba" luthetha ulwakhiwo lwezakhiwo okanye izinto ezilulwakhiwo okanye ukujikwa kwendlela osetyenziswa ngayo umhlaba, kubandakanya ukusekwa kweelokishi, ukwahlulwa okanye ukudityaniswa kwemihlaba okanye nalo naluphi na uphambuko kwindlela yokusetyenziswa komhlaba oluvunywe phantsi kweso sikimi semo yomhlaba ochaphazelekayo;

"isicelo sophuhliso lomhlaba" sithetha isicelo esifakwe kwiNtloko yePhondo esikhankanywe kwiSahluko V;

"isiza somhlaba" sithetha inxenye yomhlaba obhalisiweyo okanye onokukwazi ukubhaliswa kwiofisi yobhaliso lweetayitile, kwaye sibandakanya ilungelo longengomnini wawo okanye loqeshileyo kuwo;

"ukusetyenziswa komhlaba" kuthetha injongo osetyenziselwa okanye onokusetyenziselwa yona umhlaba ngokusemthethweni ngokwemiqathango yesikim sobume bomhlaba okanye ngokwemiqathango yayo nayiphi na imvume, okanye imvumelwano ethe yakhutshwa sisiphathamandla esisegunyeni,kwaye kubandakanya nayiphi na imiqathango ephathelele ekusetyenzisweni komhlaba;

"isicelo sokusetyenziswa komhlaba" sithetha isicelo esenziwa kumasipala nesikhankanywe kwiSahluko IV;

"ucwangciso lokusetyenziswa komhlaba" luthetha ulawulo locwangciso lokusetyenziswa nokuphuhliswa komhlaba;

"uMthetho *oyiLess Formal Township Establishment Act***"** uthetha uMthetho oyi*Less Formal Township Establishment Act*, 1991 (uMthetho 113 ka-1991);

"umasipala wengingqi" uthetha umasipala wengingqi njengoko echazwa kwicandelo 1 loMthetho oyi*Local Government: Municipal Structures Act*, 1998;

"umasipala wesixeko" uthetha umasipala wesixeko njengoko echazwa kwicandelo 1 loMthetho oyi*Local Government: Municipal Structures Act*, 1998;

"ingingqi kamasipala" ithetha ingingqi ephantsi kolawulo lukamasipala ebekwe ngokwemiqathango yoMthetho oyi*Local Government: Municipal Demarcation Act, 1998*, (uMthetho 27 ka-1998);

"umphathi kamasipala" uthetha umphathi kamasipala njengoko echazwa kwicandelo 1 loMthetho oyi*Municipal Systems Act*;

"isikhokelo sophuhliso lomhlaba sikamasipala" sithetha isikhokelo sophuhliso lomhlaba sikamasipala njengoko sichazwa kwicandelo 10;

"uMthetho oyi*Municipal Systems Act***"** uthetha uMthetho oyi*Local Government: Municipal Systems Act,* 2000 (uMthetho 32 ka-2000);

"umasipala" uthetha umasipala njengoko echazwa kwicandelo 2 loMthetho oyi*Municipal Systems Act* kwaye—

(a) ubandakanya icandelo likamasipala, ibhunga likamasipala, umphathi kamasipala okanye isiphathamandla sikamasipala esinegunya lokuthatha izigqibo, apho imeko ifuna njalo;

(b) ngokuphathelele kwiskim sobume bomhlaba okanye kwisicelo sokusetyenziswa komhlaba, ubhekisele kumasipala wengingqi okanye kumasipala wesixeko waloo ngingqi kamasipala ume kuyo umhlaba lowo uchaphazelekayo;

(c) nangokuphathelele kuwo nawuphi na umsebenzi okanye naliphi na igunya likamasipala, ubhekisele kumasipala wesixeko, kumasipala wengingqi okanye kumasipala wesithili, ngokwalowo ufanelekileyo, onomsebenzi okanye igunya ngokwendlela eyahlulwa ngayo imisebenzi namagunya

ngokwemiqathango yoMthetho oyi*Local Government: Municipal Structures Act*, 1998;

"iOdinensi" ithetha uMthetho wePhondo wamandulo oyi*Land Use Planning Ordinance* 1985 (uMthetho wePhondo 15 ka-1985);

"isigqeba sikarhulumente" sithetha isigqeba sikarhulumente njengoko sichazwa kwicandelo 239 loMgaqo-siseko;

"umnini" uthetha umntu obhalisiweyo kwiofisi yobhaliso lweetayitile njengomnini womhlaba okanye ongumnini ngenxa yokuba ngumxhamli ngokwasemthethweni;

"umntu" uthetha umntu okanye isigqeba esinokuthatha okanye sithathelwe amanyathelo omthetho, kubandakanya nesigqeba saseburhulumenteni;

"ukumisela" kuthetha ukumisela ngokomgaqo ophantsi kwalo Mthetho;

"iPhondo" lithetha iPhondo leNtshona Koloni;

"okwephondo" kuthetha okukarhulumente wePhondo okanye okwenziwe nguye;

"uRhulumente wePhondo" uthetha urhulumente weli Phondo;

"uMphathiswa wePhondo" uthetha uMphathiswa wePhondo owongamele ucwangciso lokusetyenziswa komhlaba;

"isikhokelo sophuhliso lomhlaba sommandla wephondo" sithetha isikhokelo sophuhliso lomhlaba sommandla wephondo esikhankanywa kwicandelo 7;

"isikhokelo sophuhliso lomhlaba sephondo" sithetha isikhokelo sophuhliso lomhlaba sephondo esikhankanywa kwicandelo 4;

"indawo kawonke-wonke" ithetha nayiphi na indawo evulekileyo okanye ebiyelweyo, iphaki, isitalato, indlela okanye indlela ecanda phakathi kwezindlu okanye enye ingingqi yomhlaba enjalo kwisicwangciso ngokubanzi kwaye iyekamasipala okanye iselulawulweni lukamasipala, kananjalo ibandakanya indawo kawonke-wonke ethe gabalala okanye esemhlabeni onomnye umnini onenjongo enjalo yokulungiselela uluntu ngokubanzi;

"ummandla" uthetha inxenye yomhlaba eneengingqi zoomasipala okanye inxenye yeengingqi zoomasipala, futhi—

(a) inoomasipala beengingqi abangaphezulu komasipala omnye; okanye

(b) inomasipala wesixeko nomasipala wengingqi omnye okanye abangaphezulu komnye;

"irejista" ithetha irejista yesikim semo yomhlaba njengoko ikhankanywa kwicandelo 24*(c)*;

"umcwangcisi obhalisiweyo" uthetha umcwangcisi oqeqeshiweyo okanye onobugcisa obhaliswe ngokwemiqathango yoMthetho oyi*Planning Profession Act*, 2002 (uMthetho 36 ka-2002), ngaphandle kokuba iBhunga laBacwangcisi baseMzantsi Afrika eliyi*South African Council for Planners* liye umsebenzi lowo lawugcinela ukuba wenziwe ngumcwangcisi obhalisiweyo phantsi kwalo Mthetho okudidi oluthile lwabantu ababhaliswe ngokwemiqathango yecandelo 16(2) loMthetho oyi*Planning Profession Act*, 2002, imeko leyo ke apho umcwangcisi obhalisiweyo athetha olo didi lwabantu ababhalisiweyo ugcinelwe bona umsebenzi lowo;

"uMbhalisi weeTayitile" uthetha uMbhalisi weeTayitile wePhondo njengoko ekhankanywa kuMthetho oyi*Deeds Registries Act*;

"umqathango onyinayo" uthetha nawuphi na umqathango obhaliswe kunye netayitile yomhlaba onyina indlela yokusetyenziswa, yokuphuhliswa okanye yokwahlulwa komhlaba ochaphazelekayo, ungabandakanyi neenxenye zemihlaba ezingezizo ezomnini ezidala amalungelo angawo nawabathile;

"utshintsho lobume bomhlaba " luthetha isilungiso esichazwa kwicandelo 35, lesikim sobume bomhlaba ngenjongo yokufezekisa inguqu kwisikim sobume bomhlaba ngokuphathelele kwinxenye ethile yomhlaba ube sesinye isikim sobume bomhlaba njengoko ukhankanyiwe kumgaqo wobume bomhlaba

"uMthetho weeNdawo zaMaphandle" uthetha uMthetho *oyiRural Areas Act (House of Representatives), 1987 (uMthetho 9 ka-1987);*

"umhlaba osendaweni yomnye umnini" uthetha umhlaba osendaweni yomnye umnini obhaliswe kwitayitile yaloo ndawo;

"isikhokelo sophuhliso lomhlaba" sibhekisele kwisikhokelo sophuhliso lomhlaba sephondo, kwisikhokelo sophuhliso lomhlaba sommandla wephondo okanye kwisikhokelo sophuhliso lomhlaba sikamasipala;

"ucwangciso lokusetyenziswa komhlaba" luthetha ucwangciso lwendlela yokusetyenziswa komhlaba ngokwamanyathelo achazwe kwiSahluko III,

neZahluko VI ukuya kutsho kwese-IX apho zichaphazela iSahluko III, kwaye lubandakanya nokufezekiswa kolo cwangciso lokusetyenziswa komhlaba;
"isicwangciso sento elulwakhiwo" luthetha isicwangciso sento elulwakhiwo esisebenza ngokwemiqathango yecandelo 16(1)*(b)* xa lifundwa necandelo 16(3) no-(4);
"ukwahlulwa komhlaba", ngokuphathelele kumhlaba, kuthetha ukwahlulwa kweziza zomhlaba zibe ziziza zomhlaba ezingaphezu kwesinye, kwaye kubandakanya nayo nayiphi na enye into eyenziwayo emhlabeni ngenjongo yokuwulungiselela ukuwahlula umhlaba, kodwa ke kungabandakanyi nokuqulunqwa kwesicwangciso sokwahlulwa komhlaba;
"isicwangciso sokwahlulwa komhlaba" sithetha isicwangciso esikhankanywe kwicandelo 36(3)*(b)*;
"uNocanda-Jikelele" uthetha uNocanda-Jikelele weOfisi kaNocanda-Jikelele yePhondo, njengoko ichazwa kuMthetho oyi*Land Survey Act*, 1997;
"uphuhliso olunozinzo" luthetha uphuhliso olunozinzo njengoko luchazwa kwicandelo 1 loMthetho oyi*National Environmental Management Act*, 1998;
"lo Mthetho" ubandakanya nemigaqo eyenziwe phantsi kwalo Mthetho;
"itayitile" ithetha nayo nayiphi na itayitile ebhalisiweyo kwiofisi yobhaliso lweetayitile ichaza umnini womhlaba okanye ilungelo elililo lomhlaba;
"ilokishi" ithetha ingingqi yomhlaba eyahlulwa-hlulwe ngokweziza, nenokuthi ibandakanye neendawo zikawonke-wonke ezibonakalisiweyo kweso sicwangciso ngokubanzi;
"ilungelo lokusebenzisa", ngokuphathelele kumhlaba, lithetha ilungelo lokusebenzisa umhlaba ngokwendlela yobume bomhlaba, uphambuko, imvumelwano yokusebenzisa, umqathango wemvume okanye nayiphi na enye imvume ethe yanikwa yokusebenzisa umhlaba;
"ukusetyenziswa", ngokuphathelele kumhlaba, kuthetha ukusetyenziswa komhlaba ngenjongo ethile okanye uphuculo lomhlaba, nokuba lusemthethweni okanye alukho mthethweni;
"ukumisela imo yomhlaba" kuthetha ukumiselwa komhlaba ngokweenjongo oza kusetyenziselwa zona;
"imo yomhlaba" ithetha indlela ethile elawula ukusetyenziswa nokuphuhliswa komhlaba echaza—
(a) iinjongo onokusetyenziselwa zona umhlaba; kunye
(b) nobungakanani bemida yophuhliso kuloo ndlela yokusetyenziswa komhlaba njengoko ibekwa sisikim semo yomhlaba eso sichaphazelekayo;
"imephu yesimo somhlaba" ithetha imephu yesikim sobume bomhlaba esikhankanywe kwicandelo 24*(d)*;
"isikim sobume bomhlaba" sithetha isixhobo esikhankanywe kumacandelo 22 ukuya kwelama-24, okanye kwicandelo 33, sokulawula imo yomhlaba;
"iMigaqo ka-1984" ithetha imigaqo eyenziwa phantsi kwecandelo 66(1) loMthetho oyi*Black Communities Development Act*, 1984 (uMthetho 4 ka-1984), eyapapashwa ngeSaziso sikaRhulumente esingu-R.1897/1986 kwi*Gazethi kaRhulumente* enguNombolo 10431 yomhla we-12 kweyoMsintsi (Septemba) 1986 nangeSaziso sePhondo esingu-733/1989 kwi*Gazethi yePhondo* enguNombolo 4606 yomhla wama-22 kweyoMsintsi 1989, ngokuphathelele kuzo zonke izikhokelo zocwangciso lweedolophu ezikhoyo kwakutsha nje phambi kokuqalisa kwalo Mthetho ukusebenza.

ISAHLUKO II

IMISEBENZI YOOMASIPALA NORHULUMENTE WEPHONDO

Imisebenzi yoomasipala

2. (1) Oomasipala banoxanduva lokucwangcisa indlela yokusetyenziswa komhlaba kwiingingqi zabo nakwezo ndawo ziphantsi kolawulo lwazo.
(2) Oomasipala kufuneka ukuba, ubuncinane, balawule oku kulandelayo:
(a) uphuhliso, ulwamkelo, ukwenziwa kwezilungiso kunye novandlakanyo lwesikim solwahlulwa-hlulo lomhlaba kwingingqi kamasipala;
(b) iinkqubo athi umasipala afumane ngazo, aqwalasele izicelo zokusetyenziswa komhlaba enze izigqibo ngazo;
(c) iinkqubo athi umasipala aququzelele ngazo inxaxheba yoluntu ekuqwalaselweni kwezicelo zokusetyenziswa komhlaba;

(d) imiqathango ezithathelwa phezu kwayo izicelo zokusetyenziswa komhlaba;
(e) ukubekwa kwemiqathango yokwamkelwa kwezicelo zokusetyenziswa komhlaba;
(f) iinkqubo ezilandelwayo emva kokuba samkelwe isicelo sokusetyenziswa komhlaba; kunye
(g) nokuqinisekisa kukamasipala ngokuthotyelwa kwemithetho yakhe nezigqibo zakhe ngokuphathelele kucwangciso lokusetyenziswa komhlaba.

(3) Umasipala kufuneka enze le ikhankanywe kweli candela ngokwemiqathango yalo Mthetho.

Imisebenzi kaRhulumente wePhondo

3. (1) IKhabhinethi yePhondo kufuneka yamkele kwaye ivandlakanye isikhokelo sophuhliso sephondo, enokuthi isenze izilungiso, ngokwemiqathango yamacandelo 4 nele-5.

(2) UMphathiswa wePhondo usenokuthi amkele, isikhokelo sophuhliso lomhlaba sephondo, asenze izilungiso okanye asivandlakanye, kwiimeko ezikhankanywa kwicandelo 7.

(3) INtloko yeSebe kufuneka yenze isigqibo ngezicelo zophuhliso lomhlaba kwaye ke uMphathiswa wePhondo kufuneka enze izigqibo malunga nezibheno ezifakiweyo ngezo zicelo.

(4) UMphathiswa wePhondo kufuneka abeke iliso kuthotyelo lweenqobo ezikhankanywe kwiSahluko VI.

(5) UMphathiswa wePhondo kufuneka abeke iliso kucwangciso lokusetyenziswa komhlaba lwephondo nefuthe lomnye okanye leminye yale miba ilandelayo kucwangciso lokusetyenziswa komhlaba:

(a) ulawulo lweentlekele;
(b) ubonelelo ngezindlu;
(c) ucwangciso nophuhliso lommandla;
(d) uphuhliso lwemimandla yasezidolophini neyasemaphandleni;
(e) ukhenketho lwephondo;
(f) ukhuselo lweentlobo ngeentlobo zendalo, ubutyebi belifa lemveli nobezolimo;
(g) izibonelelo neenkonzo eziphambili;
(h) imithombo yamanzi neyamandla;
(i) ukuzilungelelanisa nemeko yeenguqu kubume bezulu nokukhawulelana nefuthe lenguqu yobume bezulu;
(j) uveliso lwamandla avuselelekayo nolondolozo lwamandla; okanye
(k) uphuhliso loqoqosho.

(6) UMphathiswa wePhondo usenokuthi abeke iliso—

(a) kwizakhono zoomasipala kwezemali nakwezabasebenzi ngakwicala lokwenza imisebenzi yabo yocwangciso lokusetyenziswa komhlaba;
(b) kwimpumelelo yokwenziwa komsebenzi ngoomasipala kwimisebenzi yabo yocwangciso lokusetyenziswa komhlaba;
(c) ifuthe locwangciso lokusetyenziswa komhlaba loomasipala—
  (i) kule miba ikhankanywe kwicandelwana (5);
  (ii) ekusetyenzisweni nasekungqanyanisweni kwezicwangciso namacebo aliqili kaRhulumente wePhondo nezinye izigqeba zoburhulumente;
  (iii) kwizibonelelo ezikhoyo zeenkonzo zikamasipala nakwiindlela zikamasipala;
(d) okufumanekayo ngoku nokuya kufuneka kwixa elizayo ngakwicala—
  (i) leenkonzo zobunjineli zokufezekisa ucwangciso lokusetyenziswa komhlaba lukamasipala;
  (ii) izibonelelo zabahlali nezoluntu zokuxhasa ucwangciso lokusetyenziswa komhlaba lukamasipala.

(7) UMphathiswa wePhondo kufuneka anike oomasipala inkxaso ekwenzeni imisebenzi yabo yocwangciso lokusetyenziswa komhlaba ngokuthatha amanyathelo afanelekileyo, kubandakanya enye okanye ezinye zezi zinto zilandelayo:

(a) ukukhupha izikhokelo malunga nokusetyenziswa kwalo Mthetho neminye imithetho efanelekileyo;
(b) ukukhupha imizekelo neziqulunqo ezifanayo zemigaqo-nkqubo yoomasipala, imithetho yoomasipala, izigqibo neefom;

(c) ukubonelela oomasipala ngeenkcukacha nezikhokelo malunga nokwenza kwabo izigqibo ngocwangciso lokusetyenziswa komhlaba lwabo;
(d) ukunika oomasipala uncedo lobungcali, uqeqesho nenkxaso;
(e) ukuboleka umasipala abasebenzi bephondo ngokokuthethana nabo masipala bachaphazelekayo; okanye
(f) ukubonelela ngawo nawaphi na amanyathelo enkxaso.

(8) UMphathiswa wePhondo—
(a) usenokuthi enze imigaqo; okanye
(b) akhuphe izikhokelo, ubuncinane beemfuneko, iinqobo, izimiselo nemigangatho, ehambelana nalo Mthetho ngeenjongo zokwenza lula ukusetyenziswa kwamacandelwana (4) ukuya kwele-(6) nokuqinisekisa ukuba oomasipala bayenza ngempumelelo imisebenzi yabo yocwangciso lokusetyenziswa komhlaba.

ISAHLUKO III

UCWANGCISO LOPHUHLISO LOMHLABA

Isigaba 1:

Isikhokelo sophuhliso lomhlaba sephondo

Isikhokelo sophuhliso lomhlaba sephondo

4. (1) INkulumbuso yePhondo kufuneka iqulunqe isikhokelo sophuhliso lomhlaba sephondo ngokwemiqathango yecandelo 5 esiya kuthi ke samkelwe yiKhabhinethi yePhondo.

(2) Injongo yesikhokelo sophuhliso lomhlaba sephondo—
(a) kukwenza isibonelelo sonxibelelaniso, ukudityaniswa nokungqanyaniswa komgaqo-nkqubo wophuhliso wephondo ngokuphathelele kwiinkalo zomsebenzi ezidweliswe kuLuhlu 4 no-5 loMgaqo-siseko nefuthe loko ekusetyenzisweni komhlaba;
(b) kukubonisa ngendlela yokusetyenziswa komhlaba efunekayo ikhuthaze nemeko yokubona okunokwenzeka ekusetyenzisweni komhlaba; kunye
(c) nokuququzelela unxibelelaniso, ukudityaniswa nokungqanyaniswa komgaqo-nkqubo wesizwe, owephondo nowoomasipala wocwangciso lokusetyenziswa komhlaba.

(3) Isikhokelo sophuhliso lomhlaba sephondo kufuneka ubuncinane, siqulathe oku kulandelayo:
(a) umbono womhlaba wophuhliso olumanyanisiweyo wePhondo eli;
(b) uvandlakanyo—
(i) lwamanqanaba olukuwo kungoku nje uphuhliso lwePhondo eli; kunye
(ii) nolwemingeni elujongene nayo ucwangciso lokusetyenziswa komhlaba lwephondo ngokuphathelele kwezinye iinkalo zomsebenzi wephondo ezidweliswe kuLuhlu 4 no-5 loMgaqo-siseko;
(c) Izinto zephondo eziphambili ngokubaluleka, iinjongo zalo nezicwangciso eziliqili zalo, ezijongene ngakumbi—
(i) nokuthotyelwa kweenqobo zocwangciso lokusetyenziswa komhlaba;
(ii) neentlobo ngeentlobo zendalo, indalo, ukhenketho lwephondo, ubutyebi belifa lemveli nobezolimo, uphuhliso lwezoqoqosho nentlalo nokusetyenziswa kobutyebi ngempumelelo; kunye
(iii) nokuzilungelelanisa nemeko yeenguqu kwimo yezulu nokukhawulelana nefuthe lenguqu kwimo yezulu, uveliso lwamandla avuselelekayo nolondolozo lwamandla; kunye
(d) nenkcazo yenkqubo elandelwayo ekuqulunqweni kwesikhokelo sophuhliso lomhlaba sephondo.

Uqulunqo, ulwamkelo, ukwenziwa izilungiso okanye ukuvandlakanywa kwesikhokelo sophuhliso lomhlaba sePhondo

5. (1) INkulumbuso yePhondo kufuneka imisele ikomiti esungulayo yexeshana yokwenza umsebenzi woqulunqo, ulwamkelo, ukwenziwa kwezilungiso okanye ukuvandlakanywa kwesikhokelo sophuhliso lomhlaba sePhondo esiya kuthi sifune ukwamkelwa yiKhabhinethi yePhondo, kwaye isenokuthi imisele ikomiti esungulayo

yexeshana yamanqanaba oburhulumente ahlukeneyo ukuba yenze izilungiso kwisikhokelo sophuhliso lomhlaba sePhondo esingakhange senziwe luvandlakanyo yiyo.

(2) Ikomiti le kufuneka ukuba, ubuncinane, ibandakanye—

(a) abantu abanolwazi namava ocwangciso lokusetyenziswa komhlaba;

(b) abantu abanolwazi namava olawulo lokusingqongileyo;

(c) abantu abangabacwangcisi ababhalisiweyo; kunye

(d) nabameli boomasipala beengingqi, abesixeko nabezithili, abakaRhulumente wePhondo kunye nabezigqeba zikarhulumente ezifanelekileyo, njengoko kumiselwe.

(3) UMphathiswa wePhondo kufuneka amisele iinkqubo—

(a) zokutyumba, ukunyula nemiqathango yokunyulwa kwamalungu ekomiti, kunye nezokusebenza kwekomiti;

(b) zoqulunqo, ulwamkelo, ukwenziwa izilungiso nokuvandlakanywa kwesikhokelo sophuhliso lomhlaba sePhondo; kunye

(c) nezothethwano phakathi kukarhulumente noluntu ngokuphathelele kulwamkelo, ukwenziwa izilungiso kunye nokuvandlakanywa kwesikhokelo sophuhliso lomhlaba sePhondo.

(4) UMphathiswa wePhondo usenokuthi agunyazise uphambuko okanye anike isaphulelo kwezi nkqubo zikhankanywe kwicandelwana (3) ngenjongo yokwenza ukuba iKhabhinethi yePhondo ikwazi ukwamkela isiqulunqo sesikhokelo sophuhliso lomhlaba sePhondo esikhoyo kufuphi nje phambi kokuqalisa kwalo Mthetho ukusebenza.

(5) Isikhokelo sophuhliso lomhlaba sePhondo kufuneka sivandlakanywe qho emva kweminyaka eli-10.

Usungulo lokwenziwa kwezilungiso kwisikhokelo sophuhliso lomhlaba sePhondo

6. INtloko yeSebe isenokuthi, ngokokubona kwayo okanye ngokucelwa, isungule umsebenzi wokwenziwa kwezilungiso kwisikhokelo sophuhliso lomhlaba sePhondo eziya kuthi ziye kwamkelwa yiKhabhinethi yePhondo ngokwemiqathango yezi nkqubo zikhankanywe kwicandelo 5(3)*(b)* no-*(c)*.

Isigaba 2:

Izikhokelo zophuhliso lomhlaba zemimandla yePhondo

Izikhokelo zophuhliso lomhlaba zemimandla yePhondo

7. (1) UMphathiswa wePhondo usenokuthi amkele isikhokelo sophuhliso lomhlaba sommandla wePhondo emva kokuba ethe wathethana noomasipala abachaphazelekayo kunye nasiphi na esinye isiphathamandla esifanelekileyo kuloo mmandla**.**

(2) Iinjongo zesikhokelo sophuhliso lomhlaba lommandla wephondo, kummandla othile—

(a) kukubonelela ngombono wophuhliso lomhlaba ozamela ukungqamanisa imiba yezoqoqosho, neyentlalo esingqongileyo;

(b) kukukhulisa ucwangciso lokusetyenziswa komhlaba olunentelekelelo nolukubonisayo okunokwenzeka;

(c) kukuququzelela unxibelelaniso, umanyaniso nongqamaniso lomgaqo-nkqubo wocwangciso lokusetyenziswa komhlaba wephondo kunye nowoomasipala; kananjalo

(d) nokuqwalasela imiba ethile yezoqoqosho, ezentlalo nezendalo okanye izinto ezinemfano eyodwa.

(3) Isikhokelo sophuhliso lomhlaba sommandla wePhondo kufuneka ukuba, ngokuphathelele kummandla lowo sijoliswe kuwo, siqulathe, ubuncinane, laa miba ikhankanywe kwicandelo 4(3)*(a)* ukuya ku-*(d)*, xa lifundwa nezo nguqulelo ziyimfuneko.

(4) Isikhokelo sophuhliso lomhlaba sommandla wephondo kufuneka sihambelane nesikhokelo sophuhliso lomhlaba sephondo.

Uqulunqo, ulwamkelo, ukwenziwa izilungiso, ukuvandlakanywa okanye ukurhoxiswa kwezikhokelo zophuhliso lomhlaba zemimandla yephondo

8. (1) Icandelo 5(1) ukuya ku-(3), xa lifundwa neenguqulelo eziyimfuneko, libhekisele kuqulunqo, ulwamkelo, ukwenziwa izilungiso, ukuvandlakanywa okanye ukurhoxiswa kwesikhokelo sophuhliso lomhlaba sommandla wephondo.

(2) Ngokwakwicandelwana (1), okubhekisa kwiNkulumbuso yePhondo okanye kwiKhabhinethi yePhondo kwicandelo 5(1) kufuneka kutolikwe njengokubhekisele kuMphathiswa wePhondo.

(3) Isikhokelo sophuhliso lomhlaba sommandla wePhondo kufuneka ukuba sivandlakanywe qho emva kweminyaka eli-10 ubuncinane.

Usungulo lokwenziwa kwezilungiso okanye ukurhoxiswa kwezikhokelo zophuhliso lomhlaba zemimandla yePhondo

9. INtloko yeSebe isenokuthi, ngokokubona kwayo okanye ngokucelwa, isungule umsebenzi wokwenziwa kwezilungiso okanye ukurhoxiswa kwesikhokelo sophuhliso lomhlaba sommandla wePhondo eziya kuthi ziye kwamkelwa nguMphathiswa wePhondo ngokwemiqathango yezi nkqubo zikhankanywe kwicandelo 8(1).

Isigaba 3:

Izikhokelo zophuhliso lomhlaba zoomasipala

Izikhokelo zophuhliso lomhlaba zoomasipala

10. (1) Umasipala kufuneka athobele icandelo 11 xa esamkela okanye esenza izilungiso kwisikhokelo sophuhliso lomhlaba sikamasipala ngokwemiqathango yoMthetho oyi*Municipal Systems Act*.

(2) Isikhokelo sophuhliso lomhlaba sikamasipala kufuneka ukuba, ubuncinane—

(a) siyithobele eminye imithetho echaphazelekayo;
(b) sikhuthaze ukubonakala kokunokwenzeka ekusetyenzisweni komhlaba;
(c) siziqwalasele izinto zophuhliso eziphambili ngokubaluleka;
(d) apho kufanelekileyo, silungiselele iinkalo zophuhliso lomhlaba ezithile, kubandakanya iidolophu, ezinye iindawo zophuhliso, iindawo ezinobuethe-ethe, okanye iindawo ezifumana uxinzelelo oluthile ngakwiinkalo zophuhliso; kananjalo
(e) sibandakanye ingxelo neemephu zayo yonke ingingqi kamasipala lowo, nebonisa ucwangciso lukamasipala kunye nezi zinto zilandelayo zokuma kwakhe:
  (i) iindlela zezinto zothutho;
  (ii) iindawo ezithe gabalala nemityino yezendalo;
  (iii) iiprojekthi eziphambili eziphakanyisiweyo zamanqwanqwa ombuso ezinemiphumela enezithuba ezibonakalayo;
  (iv) imida engaphandle elungenakudluliswa kuyo ulwandiso; kananjalo
  (v) nokwanda kolwakhiwo lwemimandla yedolophu.

(3) Isikhokelo sophuhliso lomhlaba sikamasipala kufuneka ukuba singqanyaniswe nezicwangciso zophuhliso zephondo nezicwangciso eziliqili, kwaye kufuneka zihambelane nezo zicwangciso zophuhliso ngokuthi zibandakanye nemephu ethi ubuncinane ibonakalise ezi zinto zilandelayo kwingingqi kamasipala lowo:

(a) iindlela zephondo zezothutho;
(b) iindlela zephondo zothutho lukawonke-wonke;
(c) izibonelelo zephondo zezempilo nezemfundo ezikhoyo nezisacetywayo;
(d) ubutyebi belifa lemveli, bezolimo nokhenketho obubalulekileyo kwiphondo eli; kananjalo
(e) apho kufanelekileyo, neendawo zendalo ezinexabiso kwiphondo eli, ezibandakanya—
  (i) iindawo zolondolozo lwendalo;
  (ii) iindawo ezinexabiso ngokweentlobo ngeentlobo zendalo ezikuzo;
  (iii) iindawo ezifuna ulondolozo lomhlaba olulodwa;
  (iv) iindawo ezifuna ulawulo olulodwa longcoliseko; kunye
  (v) neendawo ezifuna izicwangciso eziliqili ezizodwa zokumelana neenguqu kwezemo yezulu nezokuthomalalisa ifuthe lenguqu kwimo yezulu.

Ulwamkelo okanye ukwenziwa izilungiso kwezikhokelo zophuhliso lomhlaba zoomasipala

11. Inkqubo eyamkelwe ngumasipala ngokwemiqathango yecandelo 28 loMthetho oyi*Municipal Systems Act* ngokuphathelele kulwamkelo okanye ukwenziwa kwezilungiso kwisikhokelo sophuhliso lomhlaba sikamasipala kufuneka ilungiselele—

(a) ukusekwa kwekomiti esungulayo yamanqanaba karhulumente yokuqulunqa isikhokelo sophuhliso lomhlaba sikamasipala okanye isiqulunqo sezilungiso kwisikhokelo sophuhliso lomhlaba sikamasipala; okanye

(b) inkqubo ehamba ngokwecandelo 13.

Ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente

12. (1) Ukuba ngaba umasipala useka le komiti isungulayo yamanqanaba ngamanqanaba oburhulumente ikhankanywe kwicandelo 11*(a)*, kufuneka ukuba ikomiti le, ubuncinane, ibandakanye—

(a) umphathi kamasipala, okanye umsebenzi kamasipala okhethwe ngumphathi kamasipala; kunye

(b) nabameli—

(i) bakamasipala, abakhethwe ngumphathi kamasipala;

(ii) beSebe eli, abakhethwe yiNtloko yeSebe; kunye

(iii) nabesebe lephondo elijongene nemicimbi yokusingqongileyo, abakhethwe yintloko yelo sebe.

(2) Amalungu ekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente kufuneka abe ngabantu abanyulwe ngenxa yoqeqesho abaluphumeleleyo namava abo nolwazi lwabo locwangciso lokusetyenziswa komhlaba okanye lolawulo lwendalo esingqongileyo.

(3) Ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente —

(a) ichotshelwa ngumphathi kamasipala okanye ngumsebenzi kamasipala okhethwe ngumphathi kamasipala ngokwemiqathango yecandelwana (1)*(a)*, ngokwemeko;

(b) iqulunqa iinkqubo zayo, ekufuneka ukuba zibe nesibonelelo esijolise kubuncinane obunokuhlala intlanganiso ngokusesikweni nesokwenziwa kwezigqibo; kwaye

(c) isenokunyula iikomitana eziphantsi kwayo ize ke izinike imisebenzi ezo komitana.

(4) La malungu akhankanywe kwicandelwana (1)*(b)*(ii) no-(iii) kufuneka angenisele umasipala izimvo zephondo ezimalunga nesiqulunqo sesikhokelo sophuhliso lomhlaba sikamasipala ngexesha lokuqulunqwa kwaso.

Inkqubo ngaphandle kwekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente

13. (1) Ukuba le komiti isungulayo yamanqanaba ngamanqanaba oburhulumente ikhankanywe kwicandelo 12 ayithanga yasekwa, umasipala—

(a) kufuneka angenisele uMphathiswa wePhondo isiqulunqo sesikhokelo sophuhliso lomhlaba sikamasipala okanye isiqulunqo sezilungiso ezenziwe kwisiqulunqo sesikhokelo sophuhliso lomhlaba sikamasipala ukuze anike izimvo zakhe ngaso ngento ebhaliweyo; kwaye

(b) ayinako ukuba ingasamkela isikhokelo sophuhliso lomhlaba sikamasipala sayo okanye yamkele izilungiso ezenziwe kuso de—

(i) abe uzifumene umasipala waziqwalasela ezi zimvo zikhankanywe kwicandelwana (2); okanye

(ii) kuphele esi sithuba sikhankanywe kwicandelwana (2) naxa esi sithuba sithe saphela kungekabikho zimvo zivakalisiweyo nguMphathiswa wePhondo.

(2) UMphathiswa wePhondo kufuneka ukuba zithi zingekapheli iintsuku ezingama-60 emva kokuba esifumene isiqulunqo sesikhokelo sophuhliso lomhlaba sikamasipala okanye isiqulunqo sezilungiso ezenziwe kuso ngokwemiqathango yecandelwana (1)*(a)*, angenisele umasipala lowo izimvo ezibhaliweyo ngaso.

(3) Esi sithuba sikhankanywe kwicandelwana (2) sisenokuthi sandiswe ngemvumelwano nomasipala lowo.

Ukungeniswa kwezikhokelo zophuhliso lomhlaba zoomasipala

14. Umphathi kamasipala kufuneka ukuba, singekadluli esi sithuba sikhankanywe kwicandelo 32(1) loMthetho oyi*Municipal Systems Act*, ingenise ezi zinto zilandelayo kuMphathiswa wePhondo:

(a) isaziso esibhaliweyo ngesigqibo sokwamkela okanye sokwenza izilungiso kwisikhokelo sophuhliso lomhlaba sikamasipala okanye sokwenza izilungiso kuso, kananjalo nezizathu zeso sigqibo;

(b) isikhokelo sophuhliso lomhlaba sikamasipala esamkelweyo okanye esenziwe izilungiso; kunye

(c) nengxelo echaza impendulo kamasipala kwizimvo ezingenisiweyo phantsi kwemiqathango yecandelo 12(4) okanye 13(2).

Imfano phakathi kwezikhokelo zophuhliso lomhlaba zoomasipala

15. (1) Izikhokelo zophuhliso lomhlaba zoomasipala beengingqi nezoomasipala bezithili abafanelekileyo kufuneka ukuba zihambelane.

(2) Iinkqubo ezamkelwe ngoomasipala bezithili ngokwemiqathango yecandelo 27 loMthetho oyi*Municipal Systems Act* kufuneka zibandakanye nezisombululo lweembambano eziphathelele kwimfano phakathi kwezikhokelo zophuhliso lomhlaba zoomasipala ezamkelwe ngoomasipala beengingqi kwingingqi kamasipala wesithili sabo nezikamasipala wesithili lowo.

(3) Inkqubo yosombululo lweembambano kufuneka ibandakanye nenkqubo yokwaziswa koMphathiswa wePhondo ngembambano.

Isigaba 4:

Izicwangciso zexeshana nangokubanzi

Izicwangciso zezinto ezilulwakhiwo

16. (1) Nakubeni iOdinensi itshitshiswa licandelo 77—

(a) isicwangciso sento elulwakhiwo esamkelwa ngokwemiqathango yecandelo 4(6) leOdinensi saza sashicilelwa kwiSaziso sePhondo esinguNombolo 236/2009 *kwiGazethi yePhondo* enguNombolo 6641 yomhla we-10 kweyeKhala (Julayi) 2009, okanye nasiphi na isilungiso okanye enye into eyathatha indawo yaso phambi kokuqalisa kwalo Mthetho, sihlala sisebenza, kwaye sithathwa njengokuba sisikhokelo sophuhliso lomhlaba sephondo esamkelwe phantsi kwecandelo 4(1); kwaye

(b) kuthathelwe ingqalelo icandelwana (2) nasiphi na isicwangciso sento elulwakhiwo esamkelwe phantsi kwecandelo 4(6) okanye 4(10) leOdinensi ebikho kufutshane nje phambi kokuqalisa kwalo Mthetho ukusebenza.

(2) Nakubeni kukho icandelwana (1)*(b)*, esi iSicwangciso seZinto eziLulwakhiwo Ngokubanzi (General Structure Plan) sikhankanywe kwiSetyhula LDC 9 yomhla we-8 kweyoMnga (Disemba) 1988, samkelwe phantsi kwecandelo 4(6) leOdinensi nazo zonke izilungiso zawo ziyarhoxiswa ekuqaleni kwalo Mthetho ukusebenza.

(3) Esi sicwangciso sezinto ezilulwakhiwo sikhankanywe kwicandelwana (1)*(b)* siyaphelelwa emva kweminyaka emibini uqalile lo Mthetho ukusebenza.

(4) Umasipala usenokuthi phambi kokuba isicwangciso sento elulwakhiwo siphelelwe, ngesaziso esikhutshwe *kwiGazethi yePhondo*, sikurhoxise ukusetyenziswa kwaso kwingingqi kamasipala yakhe.

Ukuqhutywa kwezikhokelo zophuhliso lomhlaba

17. Ukuba ngaba umhlaba ome kwinginqi kamasipala othile uthe wafakelwa kwingingqi yomnye umasipala, isikhokelelo sophuhliso lomhlaba saloo mhlaba sihlala sisebenza kuloo masipala besisebenza kuye ngokuya loo mhlaba ubungekayi kufakelwa komnye umasipala de sibe senziwe izilungiso nguloo masipala ufakelwe kuye ngokwesi Sahluko.

Ukupapashwa kwezikhokelo zophuhliso lomhlaba

18. (1) Umasipala kufuneka ukuba, emva kokwamkelwa okanye kokwenziwa kwezilungiso isikhokelo sophuhliso lomhlaba sakhe apapashe isaziso ngesigqibo sakhe kwiGazethi yePhondo.

(2) Ukuba ngaba isikhokelo sophuhliso lomhlaba sikamasipala senziwe izilungiso ngenxa yesigqibo sekomiti yexeshana ekhankanywe kwicandelo 33 loMthetho oyi*Municipal Systems Act*, kufuneka kupapashwe isaziso sezo zilungiso ngokwecandelwana (1).

(3) UMphathiswa wePhondo kufuneka zithi zingekapheli iintsuku ezingama-21 emva kokwamkelwa okanye kokwenziwa izilungiso isikhokelo sophuhliso lomhlaba sephondo okanye isikhokelo sophuhliso lomhlaba sommandla wephondo, apapashe isaziso ngeso sigqibo kwiGazethi yePhondo.

(4) Isikhokelo sophuhliso lomhlaba sephondo, isikhokelo sophuhliso lomhlaba sommandla wephondo okanye izilungiso kwesinye sazo siqala ukusebenza ngaloo mhla wokupapashwa kwesi saziso sikhankanywe kwicandelwana (3).

Uthotyelo lwezikhokelo zophuhliso lomhlaba nezicwangciso zolwakhiwo zezinto ezilulwakhiwo okanye imfano yazo nophambuko kuzo

19. (1) Ukuba ngaba isikhokelo sophuhliso lomhlaba okanye isicwangciso sento elulwakhiwo silungiselela ukusetyenziswa okanye uphuhliso lomhlaba njengoko kuphakanyiswa kwisicelo sokusetyenziswa komhlaba okanye sokuphuhliswa komhlaba, oko kusetyenziswa okanye kuphuhliswa kuphakanyiswayo kuthathwa ukuba siyasithobela eso sikhokelo sophuhliso lomhlaba okanye neso sicwangciso sezinto ezilulwakhiwo.

(2) Ukuba isikhokelo sophuhliso lomhlaba okanye isicwangciso sezinto ezilulwakhiwo asikulungiseleli ukusetyenziswa okanye ukuphuhliswa komhlaba njengoko kuphakanyiswa kwisicelo sokusetyenziswa komhlaba okanye kwisicelo sophuhliso lomhlaba, kodwa olu setyenziso okanye olu phuhliso lomhlaba aluphikisani neenjongo naloo ndawo ichaphazelekayo kwisikhokelo sophuhliso lomhlaba okanye kwisicwangciso sezinto ezilulwakhiwo, oko kusetyenziswa okanye oko kuphuhliswa kuthathwa ngokuba kuyahambelana nesikhokelo sophuhliso lomhlaba okanye nesicwangciso sezinto ezilulwakhiwo eso.

(3) Ukuba ngaba olu setyenziso okanye olu phuhliso lomhlaba luphakanyiswayo kwisicelo sokusetyenziswa okanye sokuphuhliswa komhlaba asithobeli kwaye asihambisani nendlela yokusetyenziswa komhlaba echaziweyo kweso sikhokelo sophuhliso lomhlaba okanye kwesi sicwangciso sezinto ezilulwakhiwo, olo setyenziso okanye olo phuhliso luyaphambuka kweso sikhokelo sophuhliso lomhlaba okanye kweso sicwangciso sezinto ezilulwakhiwo.

Amarekhodi ezikhokelo zophuhliso lomhlaba

20. (1) Isiphathamandla esifanelekileyo nesisegunyeni kufuneka simana ukusihlaziya isikhokelo sophuhliso lomhlaba saso, kunjalo nje esi sikhokelo sophuhliso lomhlaba sihlaziyiweyo sisenze sifikeleleke eluntwini.

(2) Isikhokelo sophuhliso lomhlaba kufuneka sibonakalise irekhodi.—

(a) xa isisikhokelo sophuhliso lomhlaba sephondo okanye isikhokelo sophuhliso lomhlaba sommandla wephondo, izicelo zophuhliso lomhlaba ezinophambuko kweso sikhokelo sophuhliso lomhlaba, njengoko kuchazwa kwicandelo 19(3);

(b) xa isisikhokelo sophuhliso lomhlaba sikamasipala, izicelo zokusetyenziswa komhlaba ezamkelweyo ezinophambuko kweso sikhokelo sophuhliso lomhlaba, njengoko kuchazwa kwicandelo 19(3); kunye

(c) nezilungiso zesikhokelo sophuhliso lomhlaba.

Ukudityaniswa kwezinye izicwangciso, imigaqo-nkqubo okanye izikhokelo

21. Xa uRhulumente wePhondo okanye umasipala kufuneka amkele isicwangciso, umgaqo-nkqubo okanye isikhokelo esichaphazela ucwangciso lokusetyenziswa komhlaba ngokwemiqathango yeminye imithetho, uMphathiswa wePhondo okanye umasipala usenokuthi eso sicwangciso, loo mgaqo-nkqubo okanye eso sikhokelo

okanye izilungiso kuso azidibanise nesikhokelo sophuhliso lomhlaba esifanelekileyo, ukuba—

(a) yonke imithetho echaphazelekayo ithotyelwe; nokuba

(b) isikhokelo sophuhliso lomhlaba siyayichaza imithetho esamkelwe phantsi kwayo kunye nesiphathamandla esisamkeleyo.

ISAHLUKO IV

ULAWULO LOPHUHLISO LOOMASIPALA

Isigaba 1:

Izikim zemo yomhlaba

Isikim semo yomhlaba kwingingqi kamasipala

22. (1) Wonke umasipala wengingqi nomasipala wesixeko kufuneka abe nesikim semo yomhlaba esinye sengingqi yakhe yonke, esibandakanya, ubuncinane laa miba ikhankanywe kwicandelo 24.

(2) Xa umasipala esebenzisa isikim semo yomhlaba, kufuneka ukuba umasipala awuthobele lo Mthetho kwakunye nobunye ubuncinane beemfuneko ezinokubekelwa izikim zemo yomhlaba.

(3) Umasipala kufuneka ukuba asivandlakanye isikim semo yomhlaba wakhe qho emva kweminyaka eli-10, ubuncinane.

(4) Izilungiso ezenziwe emva kovandlakanyo kufuneka zamkelwe ngokwemiqathango yecandelo 25.

Iinjongo zezikim zemo yomhlaba

23. Iinjongo zezikim zemo yomhlaba, ubuncinane—

(a) kukuqinisekisa ngophuhliso olunocwangco nangentlalo-ntle yabahlali; kunye

(b) nokubeka amalungelo okusebenzisa nemida yophuhliso,

kuthathelwe ingqalelo eziya nqobo zikhankanywe kwiSahluko VI.

Iziqulatho zezikim zemo yomhlaba

24. Isikim semo yomhlaba kufuneka, ubuncinane, sibandakanye—

(a) imo yomhlaba;

(b) ukuqalisa kokusebenza kweemo zomhlaba ezintsha, ukuba ngaba zilungiselelwe izimo zomhlaba ezitsha kwizikim zemo yomhlaba;

(c) ukugcinwa kwerejista yokubhala iimeko zophambuko, iindlela zokusetyenziswa komhlaba ezingahambi ngokubekiweyo ezikhankanywe kwicandelo 29(1)*(c)*(i) nokusetyenziswa ngemvumelwano; kunye

(d) ulwamkelo lwemephu yemo yomhlaba yokubhala oku kulandelayo:

(i) ubume bemo yeziza zomhlaba neenkcazelo ngamarekhodi akwirejista; kunye

(ii) nobume bemo yomhlaba kwakhona nezilungiso kwiinkcazelo ngerejista, apho kwamkelwa isicelo sesicwangciso sokusetyenziswa komhlaba ngumasipala okanye apho ilungelo lokusebenzisa liphelelweyo.

Ukuqulunqwa nokwenziwa izilungiso kwezikim zemo yomhlaba

25. Umasipala kufuneka ukuba aqulunqe okanye enze izilungiso kwisikim semo yomhlaba wakhe—

(a) esiseka ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente yokuqulunqa isikim semo yomhlaba esisiqulunqo okanye izilungiso zesikim semo yomhlaba; okanye

(b) esilandela inkqubo echazwe kwicandelo 27.

Ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente

26. (1) Ukuba umasipala useka le komiti isungulayo yamanqanaba ngamanqanaba oburhulumente ikhankanywe kwicandelo 25*(a)*, le komiti kufuneka ubuncinane, ibandakanye—

(a) umphathi kamasipala okanye umsebenzi kamasipala okhethwe ngumphathi kamasipala; kunye

(b) nabameli—

(i) bakamasipala, abatyunjwe, ngumphathi kamasipala;

(ii) bakamasipala wesithili ofanelekileyo, abatyunjwe ngumphathi kamasipala wabo; kunye

(iii) nabeSebe eli abatyunjwe yiNtloko yeSebe.

(2) Amalungu ekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente kufuneka abe ngabantu abanyulwe ngenxa yezifundo abaziqeqeshelweyo okanye yamava abo nolwazi lwabo locwangciso lokusetyenziswa komhlaba.

(3) Ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente—

(a) ichotshelwa ngumphathi kamasipala okanye umsebenzi kamasipala okhethwe ngumphathi kamasipala phantsi kwecandelwana (1)*(a)*, ngokoko kufanelekileyo;

(b) ibeka iinkqubo zayo ekufuneka zilungiselele ubuncinane benani elinokuqhuba intlanganiso ngokusesikweni nokwenziwa kwezigqibo; kwaye

(c) isenokunyula iikomitana eziphantsi kwayo ize ke izinike imisebenzi ezo komitana. (4) La malungu akhankanywe kwicandelwana (1)*(b)(iii)* kufuneka angenisele umasipala izimvo zephondo ezimalunga nesiqulunqo sesikhokelo sophuhliso lomhlaba sikamasipala ngexesha lokuqulunqwa kwaso.

Inkqubo ngaphandle kwekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente

27. (1) Ukuba le komiti isungulayo yamanqanaba ngamanqanaba oburhulumente ikhankanywe kwicandelo 26 ayithanga yasekwa, umasipala—

(a) makangenisele uMphathiswa wePhondo isiqulunqo sesikhokelo sophuhliso lomhlaba sikamasipala okanye isiqulunqo sezilungiso ezenziwe kwisiqulunqo sesikhokelo sophuhliso lwerejista nemephu yolwahlulwa-hlulo lomhlaba sikamasipala ukuze anike izimvo zakhe ngaso ngento ebhaliweyo; kwaye

(b) ayinako ukuba ingasamkela isikhokelo sophuhliso lomhlaba sikamasipala sayo okanye yamkele izilungiso ezenziwe kuso de—

(i) abe usifumene umasipala waziqwalasela ezi zimvo zikhankanywe kwicandelwana (2); okanye

(ii) de kuphele esi sithuba sikhankanywe kwicandelwana (2) naxa esi sithuba sithe saphela kungekabikho zimvo zivakalisiweyo nguMphathiswa wePhondo.

(2) UMphathiswa wePhondo kufuneka ukuba zithi zingekapheli iintsuku ezingama-60 emva kokuba esifumene isiqulunqo sesikhokelo sophuhliso lomhlaba sikamasipala okanye isiqulunqo sezilungiso ezenziwe kuso ngokwemiqathango yecandelwana (1)*(a)*, angenisele umasipala lowo izimvo ezibhaliweyo ngaso.

(3) Esi sithuba sikhankanywe kwicandelwana (2) sisenokuthi sandiswe ngemvumelwano nomasipala lowo.

Ukungeniswa kwezikim zemo yomhlaba

28. Umasipala kufuneka ukuba, zingekadluli iintsuku ezingama-30 emva kokwamkelwa kwesikim semo yomhlaba okanye emva kokwenziwa kwaso izilungiso, angenise ezi zinto zilandelayo kwiNkulumbuso yePhondo:

(a) isaziso esibhaliweyo ngesigqibo sokwamkela okanye sokwenza izilungiso kwisikim semo yomhlaba sikamasipala okanye sokwenza izilungiso kuso, kananjalo nezizathu zeso sigqibo;

(b) Isikim semo yomhlaba esamkelweyo okanye esenziwe izilungiso; ngaphandle kwerejista nemephu yobume bemo yomhlaba kunye

(c) nengxelo echaza impendulo kamasipala kwizimvo ezingenisiweyo phantsi kwemiqathango yecandelo 26(4) okanye 27(2).

Ukuqalisa kokusebenza kwezikim zemo zomhlaba

29. (1) Umasipala kufuneka ukuba abe nesibonelelo samanyathelo afanelekileyo okulawula—

(a) ukuqalisa kwesikim semo yomhlaba ukusebenza ngokuhambelana nalo Mthetho nangolunye uvandlakanyo onokulwenziwa okanye izilungiso ezinokwenziwa kuwo;

(b) inguqu ngokuhambelana necandelo 34, ukusuka—

(i) kwisikim semo yomhlaba esisebenzayo ngokwemiqathango yecandelo 33 ukuya kwisikim semo yomhlaba esamkelwe ngokuhambelana nalo Mthetho;

(ii) nakwisikim somhlaba esamkelwe ngokuhambelana nalo Mthetho ukuya kuvandlakanyo nezilungiso ezenziweyo kuwo; kunye

(c) nokusetyenziswa komhlaba okungahambelaniyo neemfuno, ngokuthi abonelele ngokuba—

(i) umhlaba osetyenziswa ngokusemthethweni ngokwesikim semo yomhlaba ekhoyo, ngenjongo engahambi ngokwesikim sesimo somhlaba esicetywayo, ungaqhuba usetyenziselwa loo njongo xa esi sikim semo yomlaba sitsha siqalisa ukusebenza; kananjalo

(ii) kufuneka ukuba kwenziwe isicelo sokusetyenziswa komhlaba xa kusenziwa utshintsho kwizakhiwo okanye zisandiswa okanye kwizinto ezilulwakhiwo ezikulo mhlaba ukhankanywe kumhlathana *(i)*.

(2) Umasipala kufuneka ukuba asipapashe isigqibo sakhe sokwamkela imephu yobume bemo yomhlaba kwi*Gazethi yePhondo*.

Ukusetyenziswa komhlaba okuvunyelweyo

30. Akukho mntu unokuthi asebenzise okanye aphuhlise umhlaba ngaphandle kokuba uvunyelwe ngokwemiqathango yesikimi semo yomhlaba okanye evunyelwe ngokuhambelanayo nalo Mthetho nemithetho kamasipala efanelekileyo.

Amarekhodi ezikim zemo yomhlaba

31. Umasipala ngamnye kufuneka amane ukusihlaziya isikim semo yomhlaba wakhe, kunjalo nje esi sikim semo yomhlaba sihlaziyiweyo asenze sifikeleleke eluntwini.

Ukuqhutywa kwezikim zemo yomhlaba

32. Ukuba ngaba umhlaba ome kwinginqi kamasipala othile uthe wafakelwa kwingingqi yomnye umasipala, isikim semo yomhlaba saloo mhlaba sihlala sisebenza kuloo masipala besisebenza kuye ngokuya loo mhlaba ubungekayi kufakelwa komnye umasipala de sibe senziwe izilungiso nguloo masipala sifakelwe kuye.

Isigaba 2:

Izikim zemo yomhlaba ezikhoyo nocwangciso lweedolophu

Izikim zemo yomhlaba ezikhoyo nocwangciso lweedolophu

33. (1) Nakubeni iOdinensi itshitshiswa licandelo 77—

(a) isikim semo yomhlaba, kubandakanya nemephu yobume bomhlaba, irejista nesikim semo yomhlaba ekhoyo ngokwemiqathango yecandelo 7, 8, 8A, 9, 10 okanye le-12 eOdinensi kufuphi nje phambi kokuba uqalise ukusebenza lo Mthetho, sihlala sisebenza, kwaye amacandelo 2, 7 ukuya kwi-14, 39 ukuya kwelama-41, 46 nelama-47 eOdinensi ahlala esebenza ngokungathi akakhange atshitshiswe, ngaphandle kokuba la macandelo akahambelani nalo Mthetho okanye nomthetho kamasipala ofanelekileyo; kananjalo

(b) ilungelo lokusebenzisa nobume bemo yomhlaba obusemthethweni zihlala zisebenza de zibe zenziwe izilungiso ngokomthetho kamasipala ofanelekileyo.

(2) Nakubeni sitshitshiswa iSaziso sePhondo esinguNomb. R733/1989 licandelo 77—

(a) Isikim semo yomhlaba nocwangciso lweedolophu ebesikho ngokwemiqathango yesi saziso kufuphi nje phambi kokuba uqalise lo Mthetho ukusebenza, sihlala sisebenza, kwaye nemiqathango efanelekileyo ekwiSaziso sePhondo esinguNombolo 733/1989 neyeSaziso sikaRhulumente esinguNombolo R.1897/1986 iyasebenza kweso sikim semo yomhlaba

weedolophu, ngaphandle kokuba la macandelo akahambelani nalo Mthetho okanye nomthetho kamasipala ofanelekileyo; kananjalo

(b) ilungelo lokusebenzisa nobume bemo yomhlaba ezisesemthethweni ngokweso sikim socwangciso lwedolophu zihlala zisebenza de zibe zenziwe izilungiso ngokomthetho kamasipala ofanelekileyo.

(3) Isicelo sokusetyenziswa komhlaba esingeniswe emva kokuba uqalile lo Mthetho ukusebenza nesibhekisele kwilungelo lokusetyenziswa elihlala lisebenza ngokwecandelwana (1)*(b)* okanye (2)*(b)* kufuneka siqwalaselwe sisetyenziswe ngumasipala ngendlela ehambelana nalo Mthetho nangokwemithetho kamasipala efanelekileyo.

(4) Ekuqaleni kokusebenza kwesi sikim semo yomhlaba sikhankanywe kwicandelo 22, isikim semo yomhlaba okanye isikim socwangciso lweedolophu ezikhankanywe kwicandelwana (1) okanye (2) ziyaphelelwa.

Isigaba 3:

Iimo zomhlaba namanye amalungelo osetyenziso

Amalungelo osetyenziso

34. (1) Xa umasipala esamkela isikim semo yomhlaba ngokuhambelana nalo Mthetho okanye asakufumana esi sicelo sikhankanywe kwicandelwana (5), kufuneka amisele imo yomhlaba okanye oko kuthathwa ngokuba sisimo somhlaba—

(a) isimo somhlaba eso okanye ekuthathwa ukuba siso isimo somhlaba ngokwesikim semo yomhlaba okanye ngokwesikim socwangciso lweedolophu esisebenza ngokwemiqathango yecandelo 33—

(i) ngeenjongo zikarhulumente wesizwe okanye zesinye isiphathamandla;

(ii) ngenjongo okanye ngolondolozo ngaphandle kwemida yophuhliso; okanye

(iii) ngenjongo ongasetyenziselwa yona umhlaba lowo; kananjalo

(b) ngalo mhlaba ukhankanywe kwicandelo 8 leOdinensi nothathwa ngokuba awunasimo somhlaba sibekiweyo ngenxa yomqathango wecandelo 14(1) leOdinensi.

(2) Xa uqalisa lo Mthetho ukusebenza, kufuneka ukuba umasipala, afakele umhlaba owawungalawulwa sisikim semo yomhlaba okanye sisikim socwangciso lweedolophu kufutshane nje phambi kokuqalisa kwalo Mthetho ukusebenza, kubandakanya nomhlaba owawulawulwa nguMthetho oyi*Rural Areas Act*, kwisikim semo yomhlaba esikhoyo esikhankanywe kwicandelo 33(1) okanye kwisikim semo yomhlaba sakhe esamkelwe ngokwalo Mthetho.

(3) Isikim semo yomhlaba esiphantsi kwamacandelo 8 okanye 9 leOdinensi sihlala sisebenza ngokwemiqathango yecandelo 33 lalo Mthetho, sihlala sisebenza kuloo mhlaba de abe umasipala uwufakele lo mhlaba ukhankanywe kwicandelwana (2) ngokwemiqathango yeliya candelwana, kwaye umasipala kufuneka amisele isikim semo yomhlaba okanye oko kuthathwa ngokuba sisikim semo yomhlaba ngokwecandelwana (4).

(4) Xa emisela isikim semo yomhlaba okanye oko kuthatyathwa ngokuba kululwahlulwa-hlulo lomhlaba ngokwamacandelwana (1), (2) okanye (3), umasipala kufuneka, ubuncinanae, athathele ingqalelo—

(a) ukusetyenziswa komhlaba okusemthethweni, okanye injongo obunokuthi usetyenziswe ngayo ngokusemthethweni kufuphi nje phambi kokuqalisa kwalo Mthetho ukuba kunokwenzeka; *(b)* imo yomhlaba, ukuba ikhona, eyona ihambelanayo noko kusetyenziswa okanye loo njongo nawo nawuphi umqathango wetayitile ofanelekileyo;

(c) nalo naluphi na uphambuko nokusetyenziswa ngemvumelwano okunokuthi kube yimfuneko ehamba naloo mo yomhlaba;

(d) kwimeko yomhlaba obungenanto kufuphi nje phambi kokuqalisa kwalo Mthetho ukusebenza, ukusetyenziswa okuvunyelweyo ngokwemiqathango yaloo tayitile okanye apho ukusetyenziswa okuvunyelweyo kungaphezulo kunokomhlaba omnye, omnye waloo mihlaba ubekwa ngumasipala; kananjalo

(e) apho ukusetyenziswa komhlaba okusemthethweni nenjongo obunokuthi usetyenziselwe yona kufuphi nje phambi kokuba uqalise lo Mthetho ukusebenza, kungenakubekwa, kwemo yomhlaba olulolona lufunekayo nohambelanayo nawo nawuphi na umqathango wetayitile ofanelekileyo, nalo

naluphi na uphambuko nokusetyenziswa ngemvumelwano okunokuthi kube yimfuneko.

(5) Umntu ofanelekileyo ofuna esi simo somhlaba sikhankanywe kwicandelwana (1) okanye (2) kufuneka afake isicelo sokukhethwa kwemo yomhlaba kumasipala.

(6) Isimo somhlaba sinokwenziwa sifanele isiza somhlaba okanye inxenye yaso, kwaye ubume bomhlaba obu akukho mfuneko yokuba bulandele imida yomhlaba lowo.

(7) Ilungelo lokusebenzisa lixhomekeka kumhlaba lowo, hayi emntwini.

Utshintso lwesimo somhlaba, uphambuko okanye usetyenziso ngemvumelwano

35. (1) Umntu ofanelekileyo ofuna utshintso lwesimo somhlaba okanye uphambuko okanye usetyenziso ngemvumelwano ngokuphathelele kumhlaba, kufuneka afake isicelo kumasipala.

(2) Xa umasipala athe ngokuzibonela kwakhe utshintsho lwesimo somhlaba, engenguye umnini wawo, kufuneka ukuba umasipala athobele amacandelo 43 nelama-44 kwaye kufuneka athathele ingqalelo, ubuncinane, laa miba ikhankanywe kwicandelo 49*(a)* ikuya ku-*(e)*.

(3) Xa umasipala esamkela isicelo sokusetyenziswa komhlaba sotshintsho lwesimo somhlaba, okanye esophambuko okanye esosetyenziso ngemvumelwano, umasipala kufuneka aqwalasele umba wokubekwa kobungakanani bexesha oluya kusebenza ngalo olo lwamkelo.

Isigaba 4:

Ulwahlulwa-hlulo lomhlaba

Ulwahlulwa-hlulo lomhlaba

36. (1) Akukho mntu unokuthi ahlula-hlule umhlaba ngaphandle kwemvume kamasipala, ngaphandle kokuba oko kwahlula-hlula komhlaba kwenziwa ngokolwaphulelo oluhamba ngokwecandelo 61.

(2) Kuthathelwe icandelo 61 ingqalelo, umntu ofanelekileyo ofuna ulwahlulwa-hlulo lomhlaba kufuneka afake isicelo kumasipala.

(3) Umasipala kufuneka ukuba, ubuncinane abe nezi mfuneko zilandelayo zifanele kufezekiswa xa kusenziwa isicelo solwahlulwa-hlulo lomhlaba:

(a) ukuba inguqu yokuzowuna iyabandakanyeka ukuba isicelo eso sibhekisele kwisimo somhlaba okanye usazokunikwa isimo somhlaba, ngenjongo ebandakanya ukwahlulwa-hlulwa komhlaba; kananjalo

(b) nokungeniswa kweplani yolo lwahlulwa-hlulo lomhlaba ebonisa oku kulandelayo:

(i) indawo ezikuyo ezi ziza zicetywayo, iindawo zikawonke-wonke nomhlaba ofunelwa iindawo zikawonke-wonke; kunye

(ii) nezimo zomhlaba ezicetywayo lwezi ziza zicetywayo.

(4) Ngokubhekisele kulwahlulwa-hlulo lomhlaba oluvunyiweyo, umasipala kufuneka ukuba, ubuncinane, alungiselele oku kulandelayo:

(a) igunya lobunini okanye lobhaliso lweendawo zikawonke-wonke elikhankanywe kwicandelo 37, nokuba linikwa nini na elo gunya okanye luqala nini na ubhaliso olo;

(b) uqinisekiso lwemo yomhlaba ngokwesicwangciso solwahlulwa-hlulo lomhlaba olo luvunyiweyo nokuba luya kwenzeka nini na olo qinisekiso;

(c) ukuba isakhiwo okanye into elulwakhiwo ingaqala nini na ukwakhiwa kwayo kwisiza somhlaba eso iyinxenye yalo mhlaba wahlulwa-hluliweyo; kunye

(d) nokwenziwa kwezilungiso kwisikim semo yomhlaba nesicwangciso ngokubanzi ukuba ngaba ulwahlulwa-hlulo luyaphelelwa ngokwalaa mqathango ukhankanywe kwicandelwana (9).

(5) Umasipala kufuneka ukuba abeke imiqathango efanelekileyo ephathelele kweziya nkonzo zobunjineli zikhankanywe kwicandelo 40(2)*(a)* yokuvunywa kolwahlulwa-hlulo.

(6) Xa umasipala evumela utshintsho kwimo yomhlaba ngenjongo ebandakanya ulwahlulwa-hlulo lomhlaba, kufuneka abeke imiqathango ebandakanya, ubuncinane, oku kulandelayo—

(a) iimfuneko eziphathelele kwingxinano;

(b) iindlela zokusetyenziswa komhlaba eziphambili nobungakanani baloo mihlaba; kananjalo

(c) isicwangciso sokungenisa esineenkcukacha okanye isiseko esiquka—
 (i) iindlela zothutho eziphambili;
 (ii) iindlela zokusetyenziswa komhlaba eziphambili;
 (iii) izibonelelo ezikhulu;
 (iv) iimfuneko zezigqeba zoburhulumente;
 (v) iimfuneko zeendawo ezivulelekileyo zikawonke-wonke; kunye
 (vi) nezithintelo kuphuhliso olululwakhiwo.

(7) Ukuba ngaba umasipala uvuma ulwahlulwa-hlulo, lowo ufaka isicelo angenise iplani ngokubanzi okanye idayagram kuNocanda-Jikelele ukuze ayamkele, kubandakanya nobungqina obumanelisayo uNocanda-Jikelele, bubandakanya, ubuncinane oku kulandelayo—

(a) isigqibo sokwamkelwa kolwahlulwa-hlulo;
(b) imiqathango yolu lwamkelo lukhankanywa kwicandelwana (5) nakwicandelo 40; kunye
(c) neplani yolu lwahlulwa-hlulo luvunyiweyo.

(8) Ukuba ngaba umasipala wamkela ulwahlulwa-hlulo, lowo ufaka isicelo kufuneka aqinisekise okanye athobele ubuncinane bezi mfuneko zilandelayo:

(a) ulwamkelo nguNocanda-Jikelele lwesi sicwangciso ngokubanzi okanye le dayagram ikhankanywe kwicandelwana (7);
(b) ukugqitywa kofakelo lweenkonzo zobunjineli ngokwale miqathango ikhankanywe kwicandelwana (5) okanye yeminye imithetho efanelekileyo;
(c) ubungqina bolwaneliseko lukamasipala kukuba yonke imiqathango efanelekileyo yolu lwahlulwa-hlulo lubonisiwe kwisicwangciso ngokubanzi okanye kwidayagram ifezekisiwe njengoko ichazwa kwicandelo 40; kananjalo
(d) ubhaliso lodluliselo lobunini besi siza somhlaba sibonakaliswe kwidayagram okanye keubuncinane besiza somhlaba sibonakaliswe kwisicwangciso ngokubanzi ngokwemiqathango yoMthetho oyi*Deeds Registries Act*.

(9) Umasipala kufuneka ukuba abeke ubungakanani bexesha oluya kusebenza ngalo olo lwamkelo lolwahlulwa-hlulo, ngokobuncinane bemigangatho obubekiweyo ngenjongo yokulungiselela—

(a) ukuphelelwa kolwamkelo lolwahlulwa-hlulo, ukuba ngaba umfaki wesicelo uyasilela ekuzifezekiseni ezi mfuneko zikhankanywe kwicandelwana (8) singekapheli esi sithuba sokusebenza kwalo sibekiweyo; kananjalo
(b) noqinisekiso lolwahlulwa-hlulo, kubandakanya noqinisekiso lwesimo somhlaba nokunikwa kwegunya lobunini beendawo zikamasipala ezikumasipala lowo, zisakuba zifezekisiwe iimfuneko ezikhankanywe kwicandelwana (8) singekapheli esi sithuba sibekiweyo.

(10) Umntu ofanelekileyo kufuneka afake isicelo kumasipala ukuba ufuna kwenziwe izilungiso okanye kutshitshiswe iplani yolwahlulwa-hlulo oluvunyiweyo, kubandakanya nemiqathango yolwamkelo olo, lwesicwangciso ngokubanzi okanye idayagram ngokuphathelele kwiziza ezibonakaliswe kwisicwangciso ngokubanzi okanye kwidayagram edluliselo lwayo lungakhange lubhaliswe ngokwemiqathango yoMthetho oyi*Deeds Registries Act*.

(11) Ukuba ngaba ukwenziwa kwezilungiso okanye ukutshitshiswa kweplani yolwahlulwa-hlulo kuye kwamkelwa, umfaki wesicelo kufuneka engenisele uNocanda-Jikelele le plani yenziwe izilungiso okanye itshitshisiweyo, ukuze ke enze ezo zilungiso okanye olo tshitshiso kwisicwangciso ngokubanzi okanye kwidayagram leyo.

(12) Apho ukwenziwa kwezilungiso okanye ukutshitshiswa kwesicwangciso ngokubanzi kufuna ukuba kuvalwe indawo kawonke-wonke, kufuneka ivalwe ngokuhambelanayo nemiqathango yecandelo 37(3) no(5) ukuya ku-(7).

(13) Umfaki wesicelo nguye othwala uxanduva lwayo nayiphi na inkcitho ekuthe kwangenwa kuyo ngenxa yoku kwenziwa kwezilungiso okanye kotshitshiso lwesicwangciso solwahlulwa-hlulo nekuthe kwangenwa kuzo ngumasipala okanye siso nasiphi na isigqeba sikarhulumente ngokuphathelele kudluliselo okanye ukubuyiselwa komhlaba kumnini wentsalela yomhlaba lowo.

Isigaba 5:

Iindawo zikawonke-wonke

Iindawo zikawonke-wonke

37. (1) Apho umhlaba usikelwe indawo kawonke-wonke njengoko kuboniswa kwiplani yolwahlulwa-hlulo oluvunyiweyo, umasipala kufuneka ukuba ubuncinane, alungiselele—

(a) ukunikezelwa kwelungelo lobunini kumasipala; okanye

(b) ubhaliso lwaloo mhlaba egameni likamasipala.

(2) Umasipala akanaxanduva lwembuyekezo ngalo mhlaba ukhankanywe kwicandelwana (1) ukuba ukubonelela ngendawo kawonke-wonke kusekelwe kwimfuneko yoko ethe yaveliswa lulwahlulwa-hlulo olo.

(3) Umasipala kufuneka ayivale isigxina indawo kawonke-wonke aze ke atshintshe eso simo saloo mhlaba ngokufanelekileyo, ukuba—

(a) umhlaba lowo ufunelwa ukusetyenziswa isigxina kwinjongo eyahlukileyo kuleyo ubukade usetyenziselwa yona kwimo yomhlaba kwindawo kawonke-wonke; okanye

(b) xa isisitalato, indawo esikuyo kufuneka yenziwe utshintsho olusisigxina kulaa nto yayamkelelwe yona kulwahlulwa-hlulo ukuze kubekho eso sitalato kuyo.

(4) Umntu ongumfaki-sicelo kwisicelo esifuna ukuvalwa kwendawo kawonke-wonke, nokuba kokwexeshana okanye kokusisigxina na, kufuneka afake isicelo kumasipala.

(5) Xa umasipala eqwalasela ukuvalwa isigxina kwendawo kawonke-wonke, kufuneka ukuba umasipala athathele ingqalelo ubuncinane, le miba ilandelayo 49*(a)* ukuya ku-*(e)*.

(6) Xa umasipala evala indawo kawonke-wonke isigxina kufuneka umasipala ubuncinane, ukuba—

(a) enze isibonelelo sembuyekezo yaloo mntu ufumene ilahleko okanye ukonakalelwa; kananjalo

(b) alawule ubunini bomhlaba lowo emva kokuvala indawo kawonke-wonke isigxina.

(7) Umasipala kufuneka amazise uNocanda-Jikelele ngokuvalwa isigxina kwendawo kawonke-wonke kwaye ke uNocanda-Jikelele kufuneka enze izilungiso kwisicwangciso okanye kwidayagram.

Isigaba 6

Uhlanganiso lweeziza zomhlaba

Uhlanganiso lweziza zomhlaba

38. (1) Umntu akanakho ukwakha isakhiwo okanye into elulwakhiwo engxabalaze kwimida yeziza ezibini nangaphezulu ngaphandle kwemvume kamasipala.

(2) Ethathele ingqalelo icandelo 61, umntu ofanelekileyo ofuna ukuhlanganisa iziza zomhlaba kufuneka afake isicelo kumasipala.

(3) Xa umasipala evuma ukuhlanganiswa kweziza zomhlaba, kufuneka ukuba umasipala aqwalasele umba wokubekwa kwexesha lokuphelelwa kwaloo mvume.

Isigaba 7:

Imiqathango enyinayo

Ukususwa, ukumiswa kwexeshana okanye ukwenziwa kwezilugiso kwimiqathango enyinayo

39. (1) Umntu ofanelekileyo kufuneka afake isicelo kumasipala ukuba ufuna kususwe, kumiswe okwexeshana okanye kwenziwe izilungiso kwimiqathango enyinayo.

(2) Isaziso seso sicelo kufuneka singeniselwe aba bantu balandelayo ubuncinane, ngokwecandelo 44

(a) nawuphi na umntu okhankanyiweyo kwitayitile neluncedo kuye imiqathango yonyino; kunye

(*b*) nawuphi na omnye umntu aya kuthi amalungelo akhe okanye oko akulindeleyo ngokwasemthethweni kuya kuchatshazelwa kukuvunywa kweso sicelo.

(3) Xa umasipala esusa, emisa okwexeshana okanye esenza izilungiso kwimiqathango enyinayo ngokokubona, kufuneka ukuba umasipala athobele icandelwana (2) necandelo 43 kwaye kufuneka athathele ingqalelo laa miba ikhankanywe kwicandelwana 49*(a)* ukuya ku-*(e)*.

(4) Kumqathango onyinayo nanini na kukhanywa imvume yoMlawuli okanye iBhodi yeLokishi (Townships Board), ngaphandle kwakumqathango onyinayo afumana kuwo amalungelo omthetho uRhulumente wePhondo, kuthathwa ukuba kubhekiswa kwimvume yaloo masipala ufanelekileyo.

(5) Xa umasipala eqwalasela umba wokususwa, ukumiswa okwexeshana okanye ukwenziwa kwezilungiso kwimiqathango enyinayo, kufuneka ukuba umasipala, ubuncinane, athathele ingqalelo oku kulandelayo:

(*a*) ixabiso lemali okanye elilolunye uhlobo lwamalungelo afunyanwa ngumntu okanye isigqeba phantsi kwemiqathango enyinayo, nokuba la malungelo ngawakhe na umntu lowo okanye angawalo kuba engumnini weyona nxenye inkulu yaloo mhlaba;

(*b*) iintlawulo ezifanele kuya kulo mntu unamalungelo ngokomqathango onyinayo;

(*c*) izinto ezifanele kuxhanyulwa ngulo mntu ufuna kususwe, kumiswe okwexeshana okanye kwenziwe izilungiso kwimiqathango enyinayo; ukuba ithe yasuswa, yamiswa okwexeshana okanye yenziwa izilungiso;

(*d*) indlela eluncedo ngayo entlalweni le miqathango inyinayo xa ihlala ngolu hlobo ilulo; *(e)* indlela ekuluncedo ngayo entlalweni ukususwa, ukumiswa kwexeshana okanye ukwenziwa kwezilungiso kwimiqathango enyinayo; kananjalo

(*f*) nokuba ngaba ukususwa, ukumiswa kwexeshana okanye ukwenziwa kwezilugiso kwimiqathango enyinayo kuya kuwasusa onke na amalungelo alowo ungumxhamli wawo okanye kuya kususa nje inxenye.

(6) Umasipala kufuneka asipapashe kwiGazethi yePhondo isigqibo sakhe sokususa, sokumisa okwexeshana okanye sokwenziwa kwezilungiso kwimiqathango enyinayo, aze amazise uNobhala weeTayitile ngaso.

Isigaba 8:

Imiqathango

Imiqathango

40. (1) Xa umasipala evuma isicelo sokusetyenziswa komhlaba phantsi kwemiqathango, kufuneka imiqathango leyo ibe yimiqathango enobulali, kwaye kufuneka ihambelane nale mvume yokusetyenziswa komhlaba.

(2) Imiqathango ebekwe phantsi kwecandelwana (1) isenokubandakanya imiqathango ephathelele, kodwa ingaphelelanga koku kulandelayo—

(*a*) ukunikwa kweenkonzo zobunjineli nezibonelelo;

(*b*) unikezelo lomhlaba okanye intlawulo yemali;

(*c*) ubonelelo ngomhlaba ofunelwa iindawo zikawonke-wonke okanye intlawulo yemali endaweni yobonelelo ngomhlaba ngaloo njongo;

(*d*) umiso ngokutsha lwendawo yokuhlala;

(*e*) ulondolozo lwezinto ezibubutyebi bezolimo okanye bemveli;

(*f*) ulondolozo nolawulo lweentlobo ngeentlobo zendalo;

(*g*) ubonelelelo ngezindlu ngokuncediswa luncediso-mali oluvela kurhulumente wesizwe;

(*h*) ukusebenza ngempumelelo kwamandla;

(*i*) iimfuneko ezijoliswe kuqwalaselo lokuguquka kwemo yezulu;

(*j*) ukusekwa kombutho wabanini apho kwenziwe ulwahlulwa-hlulo ngokumalunga nomhlaba;

(*k*) ubonelelo ngomhlaba ofunwa sesinye isigqeba sikarhulumente;

(*l*) uqinisekiso ngokwemiqathango yecandelo 31 loMthetho oyi*Deeds Registries Act* kwindawo zikawonke-wonke ezimnini wazo ungumasipala;

(*m*) ukubhaliswa kweendawo zikamasipala egameni likamasipala;

(*n*) udluliselo lobunini bomhlaba ofunelwa indawo zikawonke-wonke okanye ezinye iinjongo zoluntu kumasipala;

(*o*) ukungeniswa kolwahlulwa-hlulo ngokwezigaba;

(*p*) intlawulo yotyeshelo apho kusetyenziswe umhlaba ngokungekho mthethweni;

(*q*) iimfuno zezinye izigqeba zoburhulumente.

(3) Kuxhomekeke kwicandelwana (12), lo mqathango ukhankanywe kwicandelwana (2)*(b)* usenokufuna igalelo likamasipala eliyinxenye yenkcitho kamasipala kwezoluntu ngokwemfuneko enokuthi ivele kwimvume leyo, njengoko ibekwa ngumasipala ngokwezimiselo nemiqathango enokuthi ibekwe.

(4) Le nkcitho kamasipala kwezoluntu ikhankanywe kwicandelwana (3) ibandakanya nenkcitho kwizibonelelo ezinxulumene neenkonzo zikamasipala nezilungiselelo, kodwa ingaphelelanga kuzo, eziphathelele—

(*a*) kwizilungiselelo zabahlali, kubandakanya izinto zokudlala, ifenitshala yasesitalatweni, iikritshi, iiklinikhi, amabala emidlalo, izinto zemidlalo yangaphakathi okanye amaholo oluntu;

(*b*) iinjongo zolondolozo;

(*c*) ulondolozo lwamandla;

(*d*) inguqu kwimo yezulu; okanye

(*e*) iinkonzo zobunjineli.

(5) Xa kubekwa eli galelo likamasipala likhankanywe kumacandelwana (3) nele-(4), kufuneka ukuba umasipala athathele ingqalelo, ubuncinane, oku kulandelayo—

(*a*) izibonelelo zeenkonzo zikamasipala nezilungiselelo zalo mhlaba uchaphazelekayo neziyimfuneko kolo setyenziso lomhlaba luvunyiweyo;

(*b*) inkcitho ekwathi kwangenwa kuyo mandulo ngezo zibonelelo nangezo zilungiselelo nethi ikwenze lula ukuvunywa kwendlela yokusetyenziswa komhlaba;

(*c*) inkcitho ngezo zibonelelo nangezo zilungiselelo enokuthi koko kuvunywa kwendlela yokusetyenziswa komhlaba;

(*d*) imali ngokumayela namagalelo acingelwa kwicandelwana (3) ehlawulwe ngaphambili ngmnini womhlaba ekuthethwa ngaye; kunye

(*e*) nemali ngokumayela namagalelo acingelwa kwicandelwana (3) eza kuhlawlulwa kwixa elizayo ngumnini womhlaba ekuthethwa ngaye.

(6) Ngaphandle komhlaba ofunelwa iindawo zikawonke-wonke neenkonzo zobunjineli zangaphakathi, nawuphi na omnye umhlaba ongomnye ofunwa ngumasipala okanye zezinye izigqeba zoburhulumente kusakuba kuvunywe ulwahlulwa-hlulo, kufuneka ufunwe phantsi kwaloo mithetho ifanelekileyo ikulungiselelayo ukufunyanwa okanye ukuthathwa komhlaba kumnini wawo ngokusemthethweni.

(7) Umasipala akanakho ukuba angamkela isicelo sokusetyenziswa komhlaba ekufuneka ufunyanwe ngokwemiqathango yeminye imithetho.

(8) Ukuba ngaba umasipala ubeka lo mqathango ukhankanywe kwicandelwana (2)*(a)*, kufuneka kungenwe kwisivumelwano ngeenkonzo zobunjineli phakathi kukamasipala kunye nomnini waloo mhlaba uchaphazelekayo phambi kokuba kuqaliswe ngokufakwa kwezibonelelo kuloo mhlaba.

(9) Umbutho wabanini okanye umbutho wabanini bamakhaya owathi wasekwa ngenxa yomqathango weOdinensi ebikho kufuphi nje phambi kokuqalisa kwalo Mthetho ukusebenza uthathwa ngokuba ngumbutho owasekwa ngenxa yomqathango owabekwa ngumasipala ngokwalo Mthetho nangokwemiqathango yemithetho kamasipala efanelekileyo.

(10) Ukuba ngaba umasipala wamkela isicelo sokusetyenziswa komhlaba phantsi kwemiqathango, kufuneka acacise ukuba yeyiphi na imiqathango ekufuneka ifezekiswe phambi kokuba kuthengiswe okanye kuphuhliswe okanye kudluliselwe umhlaba.

(11) Umntu akanakho ukuba afake isicelo kuMbhalisi weeTayitile sokudlulisela isiza, ngaphandle kokuba umntu lowo uthe wanika ubungqina obumanelisayo umasipala ngokuyifezekisa imiqathango yokwamkelwa udluliselwe umhlaba lowo.

(12) Umasipala angathi, xa kufanelekile, asuke kumagalelo amiselwe ngokuhambelane namacandelwana (3) nele (5).

Ukwenziwa kwezilungiso kwimiqathango

41. (1) Xa umasipala athe ngokubona kwakhe okanye xa athe wacelwa, wenza izilungiso okanye wenza ulwaphulelo kumqathango wokwamkelwa okanye xa athe wabeka eminye imiqathango eyongezelelweyo, kufuneka ahambe ngokwamacandelo 40 nelama-44.

(2) Esi silungiso okanye olu lwaphulelo kumqathango lukhankanywe kwicandelwana (1) lungumqathango onyinayo kufuneka lwamkelwe phantsi kwecandelo 39.

Isigaba 9:

Iinkqubo nokwenziwa kweziggibo

Ubuncinane beenkcukacha ezifanele kungeniswa

42. Umntu ofaka isicelo sokusetyenziswa komhlaba kufuneka, ubuncinane, angenisele umasipala oku kulandelayo malunga naloo mhlaba uchaphazelekayo:

(a) ikopi yesicatshulwa esifanelekileyo esithathwe kwisicwangciso jikelele okanye kwidayagram;

(b) ikopi yetayitile; kunye

(c) nemvume yalowo kumiswe kuye ngomhlaba lowo (kuba engumniki wemalimboleko yawo), ukuba ukhona.

Ukupapashwa kwezaziso

43. (1) Xa umasipala eceba ukuqwalasela le miba ilandelayo, kufuneka ukuba, ubuncinane, ayalele ukuba makukhutshwe esi saziso sikhankanywe kumacandelwana (2) nele-(4) ngoko akucebayo:

(a) isicelo sotshintso lwemo yomhlaba okanye utshintsho lwemo yomhlaba alwenza ngokokubona kwakhe njengoko kukhankanywa kwicandelo 35;

(b) ulwahlulwa-hlulo lomhlaba ongaphezulu kuneehektare ezintlanu ubukhulu ongaphakathi kwemida yakhe anokunabela kuyo njengoko iboniswa kwisikhokelo sophuhliso lomhlaba sakhe;

(c) ulwahlulwa-hlulo lomhlaba ongaphezulu kunehektare enye ngaphandle kwemida anokunabela kuyo, njengoko iboniswa kwisikhokelo sophuhliso lomhlaba sikamasipala;

(d) ukuba ngaba umasipala akanaso isikhokelo sophuhliso lomhlaba esivunyiweyo, ulwahlulwa-hlulo lomhlaba ongaphezulu kuneehektare ezintlanu ubukhulu ngaphakathi kwenyele yomhlaba wakhe, kubandakanya nale mihlaba sele ikwamkelelwe ukusetyenziswa ikhoyo;

(e) ukuba ngaba umasipala akanaso isikhokelo sophuhliso lomhlaba esivunyiweyo, ulwahlulwa-hlulo lomhlaba ongaphezulu kunehektare enye ngaphandle komda wakhe, kubandakanya nale mihlaba sele ikwamkelelwe ukusetyenziswa ikhoyo;

(f) oku kuvalwa kwendawo kawonke-wonke kukhankanywe kwicandelo 37;

(g) isicelo sokusetyenziswa komhlaba ngokwalo mqathango unonyino ukhankanywe kwicandelo 39;

(h) ulwamkelo, isilungiso, utshitshiso okanye uvandlakanyo lwesikim semo yomhlaba okanye ulwamkelo lwemephu yesikim semo yomhlaba;

(i) ulawulo lolu lwaphulelo lukhankanywe kwicandelo 61;

(j) ezinye izicelo eziya kuthi zibe nefuthe kwizinto ezichaphazela uluntu kakhulu okanye ezichaphazela abahlali, ukuba zithe zamkelwa.

(2) Esi saziso sikhankanywe kwicandelwana (1) kufuneka sipapashwe—

(a) ngokwecandelo 21 loMthetho oyi*Municipal Systems Act* ngeelwimi zaseburhulumenteni beli Phondo ezimbini, ubuncinane, ezizezona zithethwa kakhulu kuloo ngingqi ichaphazelekayo; kwaye

(b) ukuba olu papasho lukhankanywe kumhlathi *(a)* lubonwa ngokuba alusebenzi, ngezinye iindlela ezinempumelelo, ezibandakanya izaziso ngomboko wokwandisa ilizwi, upapapasho kwiiwebhusayithi okanye kwiibhodi zezaziso zasekuhlaleni okanye ngoqhagamshelwano lwe-imeyile okanye amajelo eendaba asekuhlaleni.

(3) Umasipala kufuneka aqwalasele ukuba ngaba esi saziso sikhankanywe kwicandelwana (1) siyakufuna na ukuya kuxhonywa kuloo mhlaba uchaphazelekayo.

(4) Ukuba ngaba isaziso sixhonywe kumhlaba lowo uchaphazelekayo, umasipala kufuneka aqinisekise ukuba eso saziso sisoloko sihleli sifundeka ngalo lonke ixesha lokuxhonywa kwaso.

(5) Esi saziso sikhankanywe kwicandelwana (1) okanye isaziso esikhutshwe ngokweemfuno zesicwangciso sokusetyenziswa komhlaba kufuneka ubuncinane sibe nezi nkcukacha zilandelayo:

(a) iinjongo zalo mba upapashwayo;

(b) inkcazo yesiza eso somhlaba okanye yeziza ezo zomhlaba sibhekisa kuzo isaziso eso;

(c) ukuba ngaba zifumaneka nini naphi iinkcukacha zalo mba upapashwayo ukuze zenziwe uvandlakanyo ngabanqwenela ukuzenza uhlolo; kananjalo

(d) neenkqubo zabantu abanomdla nabachatshazelwayo sisaziso eso zokungenisa izimvo zabo ezibhaliweyo zingadlulanga iintsuku ezingama-30.

(6) Olu papasho lwesaziso lukhankanywe kwicandelwana (1) alumkhululi umasipala kuxanduva lwakhe lokuba ayalele ukuba kuhanjiswe isaziso kwezi meko zikhankanywe kwicandelo 44(1).

Ukuhanjiswa kwezaziso

44. (1) Xa umasipala eceba ukuqwalasela oku kulandelayo, kufuneka ukuba ubuncinane, ayalele ukuba kuhanjiswe isaziso soko akucebayo ngokolu hlobo lukhankanywe kwicandelwana (2):

(a) ukubekwa kolwahlulwa-hlulo lomhlaba okanye oko kuthathwa ngokolwahlulwa-hlulo lomhlaba njengoko kukhankanywa kwicandelo 34;

(b) isicelo sotshintsho lwemo yomhlaba okanye utshintsho lwemo yomhlaba alwenza ngokuzibonela njengoko lukhankanywa kwicandelo 35;

(c) isicelo sokwahlulwa-hlula komhlaba okanye ukwenziwa kwezilungiso okanye ukutshitshiswa kolu lwahlulwa-hlulo lukhankanywe kwicandelo 36;

(d) ukuvalwa kwendawo kawonke-wonke njengoko kukhankanywa kwicandelo 37;

(e) isicelo soku kuhlanganisa iziza njengoko kukhankanywe kwicandelo 38;

(f) isicelo sokususwa, sokumisa okwexeshana, sokulungisa imiqathango enyinayo njengoko kukhankanywa kwicandelo 39;

(g) ukubekwa, ukulungiswa okanye isaphulelo kulo mqathango ukhankanywe kwicandelo 40 okanye 41.

(2) Esi saziso sikhutshwe ngokwecandelwana (1) okanye ngokwemiqathango yeemfuno zesicwangciso sokusetyenziswa komhlaba kamasipala, kufuneka sihanjiswe—

(a) kumntu ngamnye aya kuthi amalungelo akhe okanye oko akulindeleyo kuchaphazeleke ukuba ngaba umcimbi lo okanye isicelo esi samkelwe;

(b) ngokwecandelo 115 loMthetho oyi*Municipal Systems Act*; kananjalo

(c) ngeelwimi zaseburhulumenteni beli Phondo ezimbini, ubuncinane, ezizezona zithethwa kakhulu kuloo ngingqi ichaphazelekayo

(3) Xa umasipala eyalela ukuba kukhutshwe isaziso ngokolu hlobo lukhankanywe kwicandelwana (1) okanye ngokwemiqathango yeemfuno zesicwangciso sokusetyenziswa komhlaba sikamasipala, kufuneka aqinisekise ukuba lo mntu uhanjiselwa isaziso uyakwazi ukuzifumana ezi nkcukacha zilandelayo kwisaziso eso:

(a) injongo yalo mba sisingisele kuwo isaziso eso;

(b) inkcazo yesiza somhlaba okanye yeziza zomhlaba esisingisele kuzo isaziso eso;

(c) ukuba ziya kufumaneka nini naphi iinkcukacha zalo mba upapashwayo ukuze zenziwe uvandlakanyo ngabanqwenela ukuzenza; kunye

(d) nenkqubo ayilandelayo umntu lowo yokungenisa izimvo ezibhaliweyo singekadlulі isithuba seentsuku ezingama-30 ubuncinane.

Uvakaliso lwezimvo lwephondo ngezicelo zokusetyenziswa komhlaba

45. (1) Umasipala kufuneka ukuba isicelo sokusetyenziswa komhlaba esiphathelele kwezi zinto zilandelayo asidlulisele kwiNtloko yeSebe ukuze ivakalise izimvo zephondo ngento ebhaliweyo sisakuba sigqityiwe isicelo eso ngokweemfuno zikamasipala necandelo 42:

(a) uphuhliso oluqhubeka ngaphandle komda kamasipala ocwangciselwe ukunaba kwakhe njengoko kuboniswa kwisikhokelo sophuhliso lomhlaba sakhe;

(b) ukuba ngaba umasipala akanaso isikhokelo sophuhliso lomhlaba esivunyiweyo, uphuhliso olungaphaya kwenyele engaphandle yomhlaba wakhe, kubandakanya nale mihlaba sele ikwamkelelwe ukusetyenziswa ikhoyo ;

(c) utshintsho lwemo yomhlaba obumiselwe imo yezolimo okanye ngeenjongo zolondolozo;

(d) naluphi na uphuhliso ekugqitywe ngalo ngumphathi kamasipala;

(e) uphuhliso olubekiweyo oluthi luchaphazele indawo yephondo esebenzayo;

(f) nazo naziphi na ezinye izicelo zokusetyenziswa komhlaba ezinokuthi zimiselwe ngeenjongo zokuxhasa nokuqinisa izakhono zoomasipala.

(2) INtloko yeSebe kufuneka ukuba zithi zingaphelanga iintsuku ezingama-60 emva kokuba isifumene isicelo sokuba ivakalise ezi zimvo zikhankanywe kwicandelwana (1), ingenisele umphathi kamasipala izimvo zephondo ngento ebhaliweyo.

(3) Umasipala akanakho ukuba angenza isigqibo ngesi sicelo sokusetyenziswa komhlaba sikhankanywe kwicandelwana (1) de—

(a) abe uzifumene ezi zimvo zephondo zikhankanywe kwicandelwana (2), waziqwalasela futhi; okanye

(b) siphele esi sithuba sikhankanywe kwicandelwana (2) naxa sithe saphela eso sithuba saphela kungekho zimvo zephondo zifumanekileyo.

(4) Esi sithuba sikhankanywe kwicandelwana (2) sisenokuthi sandiswe ngemvumelwana nomasipala.

(5) Le migaqo ikhankanywe kwicandelwana (1)*(f)* isenokuthi yahlule phakathi kweendidi ngeendidi—

(a) zoomasipala, ezinokuthi zichazwe ngokubhekisele—

(i) kwiimeko ezimfano iyodwa kwaba masipala, kubandakanya nemithombo yemali, izakhono nozinzo kwezemali;

(ii) iindidi ngeendidi zoomasipala ngokwemiqathango yoMgaqo-siseko; okanye

(iii) iindidi ezinokuthi zimiselwe ngokuphathelele ekubekweni kweliso kulawulo lweedolophu nezithili; okanye

(b) izicelo zokusetyenziswa komhlaba ezinokuchazwa ngokunxulumene nezi ndidi zokusetyenziswa komhlaba zikhankanywe kulo Mthetho.

(6) UMphathiswa wePhondo usenokuthi, emva kokuba ethethene neKhabhinethi yePhondo, aseke ikomiti enxibelelanisayo enabameli abavela kumasebe karhulumente wephondo yokuba inxibelelanise ihlanganise ezi zimvo zikhankanywe kwicandelwana (1).

Ubude bexesha lokwenziwa kwezigqibo ekungenakudlulwa kubo

46. (1) Umasipala kufuneka enze isigqibo ngesicelo sokusetyenziswa komhlaba lingadlulanga elo xesha linokuthi libekwe, nelibalwa ukusukela kuloo mhla sathi saphelela isicelo ngokuthi sifezekise zonke iimfuneko zikamasipala nezecandelo 42.

(2) Umasipala usenokuthi alandise eli xesha likhankanywe kwicandelwana (1) kwiimeko ezithile ezikunyanzelisayo oko ngenxa yohlobo lwesicelo sokusetyenziswa komhlaba eso nobuntsonkothi baso.

(3) Eli xesha likhankanywe kwicandelwana (1) alilubandakanyi ulibaziso olwenziwe kukusilela komfaki wesicelo ekufezekiseni iimfuneko zomthetho.

(4) Ukuba ngaba umasipala uyasilela ukwenza isigqibo lingadlulanga eli xesha likhankanywe kwicandelwana (1), umfaki wesicelo usenokuthi abhenele kwisiphathamandla sezibheno, ekuya kuthi ke kufuneke ukuba sona isigqibo ngeso sicelo sokusetyenziswa komhlaba.

Uvakaliso lwezimvo lwezigqeba zikarhulumente

47. (1) Isigqeba sikarhulumente kufuneka sivakalise izimvo ngesicelo sokusetyenziswa komhlaba zingadlulanga iintsuku ezingama-60—

(a) zokufumana isicelo sokuba sivakalise izimvo ngesicelo eso; okanye

(b) zokufumana zonke iinkcukacha eziyimfuneko ekuvakaliseni ezo zimvo, ukuba ngaba isicelo eso asiphelelanga, kwaye besenziwe nesicelo sezinye iinkcukacha ezizezinye, zingadlulanga iintsuku ezili-14 emva kokufumana eso sicelo sokuvakalisa izimvo.

(2) Ukuba ngaba isigqeba sikarhulumente siyasilela ukuvakalisa izimvo singadlulanga esi sithuba sikhankanywe kwicandelwana (1), isiphathamandla esifanelekileyo kufuneka sazise igosa elinoxanduva lokunika inkcazo leso sigqeba sikarhulumente okanye isiphathamandla esinika inkcazo esichazwe kuMthetho oyi*Public Finance Management Act*, 1999 (uMthetho 1 ka-1999), ngoko kusilela.

Iintlawulo zezicelo zokusetyenziswa komhlaba

48. Xa umasipala efuna intlawulo ngesicelo sokusetyenziswa komhlaba, loo ntlawulo kufuneka ukuba ihambelane nobuncinane bemiqathango enokuthi ibekwe.

Iziseko zovandlakanyo lwezicelo zokusetyenziswa komhlaba

49. Xa umasipala eqwalasela isicelo sokusetyenziswa komhlaba naxa enza isigqibo ngaso, umasipala kufuneka athathele ingqalelo ubuncinane, oku kulandelayo—

(a) isikhokelo sophuhliso lomhlaba esichaphazelekayo;
(b) iiplani zento elulwakhiwo echaphazelekayo;
(c) eziyaa nqobo zikhankanywe kwiSahluko VI;
(d) imfuneko yoku kusetyenziswa komhlaba kucetywayo; kunye
(e) nezikhokelo ezinokuthi zikhutshwe nguMphathiswa wePhondo malunga nemfuneko yoko kusetyenziswa komhlaba kucetywayo.

Ukwaziswa kwezigqibo zoomasipala

50. Umasipala kufuneka ukuba, emva kokuba esenzile esi sigqibo sikhankanywe kwesi Sahluko, athi—

(a) ngento ebhaliweyo, amazise ngesi sigqibo umfaki wesicelo okanye nawuphi na umntu obethe wafaka isichaso ngesi sicelo; kananjalo
(b) agxininise kumfaki wesicelo nakuloo mntu ubefake isicelo ukuba umntu angafaka isicelo sezizathu zeso sigqibo, futhi akhankanye nalo naliphi ilungelo lokucela uvandlakanyo okanye lokubhena.

Izibheno ngezigqibo zoomasipala

51. (1) Ukusetyenziswa kwemvume efunyenweyo kwisicelo sokusetyenziswa komhlaba ekufakwe isibheno ngaso, kuyamiswa okwexeshana de kuphume isigqibo sesiphathamandla sezibheno ngesibheno eso.

(2) Umasipala kufuneka ukuba amazise umfaki wesicelo xa kuthe kwabakho isibheno esifakwe ngomnye umntu ongenguye yena mfaki wesicelo.

(3) Ukuba ngaba isibheno eso sifakelwe nje imiqathango ebekwe ngokwecandelo lama-40 kuphela, umasipala usenokuthi avakalise ukuba imvume yona ayimiswanga okwexeshana.

(4) Umasipala kufuneka ukuba abazise abo bachaphazelekayo kwisibheno ngesigqibo esenziweyo ngesibheno eso.

Uvakaliso lwezimvo zePhondo ngezibheno

52. (1) Umphathi kamasipala—

(a) usenokuthi acele uMphathiswa wePhondo ukuba avakalisele isiphathamandla sezibheno izimvo zakhe ngento ebhaliweyo malunga nesibheno eso; kananjalo
(b) kufuneka amazise uMphathiswa wePhondo ngesibheno esifakwe kwisiphathamandla sezibheno ngesi sicelo sokusetyenziswa komhlaba sikhankanywe kwicandelo 45(1)*(a)* ukuya ku-*(f)* amcele uMphathiswa wePhondo ukuba avakalise izimvo ngesibheno eso.

(2) UMphathiswa wePhondo kufuneka athi zingaphelanga iintsuku ezingama-60 emva kokuba efumene esi sicelo sokuvakalisa izimvo sikhankanywe kwicandelwana (1), angenisele umphathi kamasipala ezo zimvo ngento ebhaliweyo.

(3) Isiphathamandla sezibheno asinakho ukwenza isigqibo ngesibheno de—

(a) sibe sizifumene, saziqwalasela ezi zimvo zoMphathiswa wePhondo zikhankanywe kwicandelwana (2); okanye
(b) siphele esiya sithuba sikhankanywe kwicandelwana (2) kungakhange kubekho zimvo zifunyanwayo zivela kuMphathiswa wePhondo ngesi sithuba.

(4) Esi sithuba sikhankanywe kwicandelwana (2) sisenokuthi sandiswe ngemvumelwano nomasipala lowo.

(5) Umasipala kufuneka zithi zingaphelanga iintsuku ezingama-30 emva kokwenziwa kwesigqibo ngesi sibheno sikhankanywe kwicandelwana (1)*(b)*, angenisele uMphathiswa wePhondo isaziso esibhaliweyo ngesigqibo eso nangezizathu zaso.

ISAHLUKO V

ULAWULO LOPHUHLISO KWIPHONDO

Ukuvunywa kophuhliso lomhlaba liPhondo

53. (1) Akukho mntu unokuthi, engafumananga mvume phantsi kwecandelwana (2) okanye engafumananga lwaphulelo phantsi kwecandelwana (3), aphuhlise umhlaba oya kuba nefuthe elikhulu—

(a) kuphuhliso lommandla okanye lwePhondo olunocwangco, nolunxibelelanisekileyo okanye olunemvisiswano;
(b) intlalontle yabahlali bommandla ngokubanzi okanye bePhondo; okanye
(c) ezoLimo,

ngenxa—

(i) yohlobo okanye yobungakanani boku kusetyenziswa komhlaba kucetywayo; okanye
(ii) yefuthe lophuhliso oluninzi eliya kuhamba lihambe livele ethubeni.

(2) Umnini walo mhlaba uchaphazelekayo okanye loo mntu uthe wagunyaziswa ngumnini usenokuthi afake isicelo kwiNtloko yeSebe sokuba avunyelwe aphuhlise umhlaba oya kuba neli futhe likhankanywe kwicandelwana (1).

(3) UMphathiswa wePhondo usenokuthi azenzele ulwaphulelo ezinye iintlobo zophuhliso lomhlaba kungabikho mfuneko yokuba zifumane le mvume ikhankanywe kwicandelwana (1) kwenye okanye kwezinye zezi meko zilandelayo:

(a) apho uphuhliso lomhlaba luhambelana nezikhokelo zophuhliso lomhlaba ezifanelekileyo;
(b) apho uphuhliso lomhlaba luhambelana neminye imigaqo-nkqubo yephondo;
(c) xa kulungiselelwa iiprojekthi zezibonelelo zikarhulumente; okanye
(d) apho imvume yephondo yayiye yanikwa phantsi kweminye imithetho.

(4) UMphathiswa wePhondo usenokuthi abeke imigaqo okanye, ngesaziso esikhutshwe kwiGazethi yePhondo, akhuphe izikhokelo ezilungiselelwe ezi ntlobo zophuhliso lomhlaba zikhakanywe kwicandelwana (1).

(5) Imvume yeNtloko yeSebe yesicelo sophuhliso lomhlaba ayimkhululi umfaki wesicelo kuxanduva lokufuna imvume yophuhliso lomhlaba efunekayo kumasipala.

(6) Imvume kamasipala yesicelo sokusetyenziswa komhlaba ayimkhululi umfaki wesicelo kuxanduva lokufuna imvume yophuhliso lomhlaba efunekayo kwiNtloko yeSebe.

(7) INtloko yeSebe mayithi, emva kokubonisana nentloko yesebe lephondo elinoxanduva lwezolimo, igqibe ngesicele sophuhliso lomhlaba olucingeleka kwicandelwana (2)*(c)*.

(8) UMphathiswa wePhondo makathi, emva a kokubonisana noMphathiswa wePhondo onoxanduva lwezolimo, agqibe ngesibheno ngokumayela nesicelo sophuhliso lomhlaba olucingeleka kwicandelwana (1)*(c)*.

Isigqibo seNtloko yeSebe

54. (1) INtloko yeSebe kufuneka yenze isigqibo ngesicelo sophuhliso lomhlaba zingadlulanga—

(a) iintsuku ezingama-90 emva kokuba sifunyenwe ukuba isicelo siye sapapashwa ngokwemiqathango yenkqubo ekhankanywe kwicandelo 67(2);
(b) iinyanga ezisixhenxe emva kokuba sifunyenwe ukuba isicelo eso siqwalaselwa ngokwale ndlela ikhankanywe kwicandelwana (2); okanye
(c) singaphelanga isithuba esibekiweyo esikhankanywe kwicandelo 67(4).

(2) UMphathiswa wePhondo kufuneka amisele iinkqubo zezicelo zophuhliso lomhlaba, kubandakanya neenkqubo zenxaxheba yoluntu, uthethwano namanqanaba oburhulumente nendlela efumana ngayo isicelo sophuhliso lomhlaba iNtloko yeSebe, indlela esiqwalasela ngayo nethatha ngayo isigqibo.

(3) Ukuba ngaba isicelo sophuhliso lomhlaba sithe asapapashwa ngokolu hlobo lukhankanywe kwicandelwana (1)*(a)* okanye *(c)*, iNtloko yeSebe kufuneka iyalele ukuba isicelo eso masipapashwe ngokwale nkqubo ikhankanywe kwicandelwana (2).

(4) INtloko yeSebe isenokuthi isamkele isicelo sophuhliso lomhlaba, ithathele ingqalelo imiqathango enobulali enokuthi ivele kolo lwamkelo loko kusetyenziswa komhlaba kucetywayo.

(5) Imiqathango ethe yabekwa ngokwecandelwana (4) isenokuthi ibadakanye le miqathago ilandelayo, kodwa ingapheleli kuyo—

(a) ukumiswa ngokutsha kwendawo yokuhlala;
(b) ulondolozo lobutyebi bolimo nobelifa lemveli;
(c) ulondolozo nolawulo lweentlobo ngeentlobo zendalo;
(d) ukusebenza ngempumelelo kwamandla;
(e) iimfuneko ezijoliswe kuqwalaselo lokuguquka kwemo yezulu;
(f) ubonelelo ngomhlaba ofunwa sesinye isigqeba sikarhulumente;
(g) iimfuneko zezinye izigqeba zikarhulumente.

(6) INtloko yeSebe isenokungasamkeli isicelo sophuhliso lomhlaba phantsi komqathango wokuba kufuneka kufezekiswe iimfuneko ezibekwa ngomnye umthetho.

(7) INtloko yeSebe kufuneka ukuba, zithi zingekadluli iitsuku ezingama-21 isenzile isigqibo ngesicelo sophuhliso lomhlaba—

(a) iyalele ukuba isigqibo eso sipapashwe ngokwemiqathango yoMthetho oyi*Western Cape Provincial Languages Act*, 1998 (Act 13 of 1998), kumaphephandaba afumanekayo kwingingqi leyo ichaphazelekayo nakwiGazethi yePhondo; kananjalo
(b) amazise ngento ebhaliweyo umfaki wesicelo naye nawuphi na umntu omalungelo akhe achaphazelekayo nothe wavakalisa izimvo, ngesigqibo sakhe.

(8) UMphathiswa wePhondo usenokuthi abeke iintlawulo zesicelo ezihlawulwa ngumfaki wesicelo sophuhliso lomhlaba.

Iziseko zovandlakanyo lwezicelo zokuphuhliswa komhlaba

55. Xa iNtloko yeSebe iqwalasela isicelo sokuphuhliswa komhlaba naxa yenza isigqibo ngaso, phantsi kwecandelo 54, iNtloko yeSebe—

(a) iqwalasela kuphela nje ezo ndawo zolu phuhliso lomhlaba ziya kuthi zibe neli futhe likhankanywe kwicandelo 53(1);
(b) kufuneka iqwalasele imfuneko yezo ndawo zolu phuhliso lomhlaba lucetywayo; kananjalo
(c) kufuneka ithathele ingqalelo—
  (i) izikhokelo zophuhliso lomhlaba ezichaphazelekayo;
  (ii) iiplani zezinto ezilulwakhiwo ezichaphazelekayo;
  (iii) eziya nqobo zikhankanywe kwiSahluko VI; kunye
  (iv) nezikhokelo ezinokuthi zikhutshwe nguMphathiswa wePhondo malunga nemfuneko yoko kuphuhliswa komhlaba kucetywayo.

Ukubhenela kuMphathiswa wePhondo

56. (1) Umntu onamalungelo achatshazelwayo sisigqibo seNtloko yeSebe phantsi kwecandelo 54 usenokuthi, zingadlulanga iintsuku ezingama-21 emva komhla wokwaziswa ngesi sigqibo, afake isibheno ngesi sigqibo ngokuthi anike uMphathiswa wePhondo isaziso esibhaliweyo sesibheno eso, achaze nezizathu zoko kubhena.

(2) Ukusetyenziswa kwemvume efunyenweyo kwisicelo sophuhliso lomhlaba ekufakwe isibheno ngaso, kuyamiswa okwexeshana de kuphume isigqibo soMphathiswa wePhondo ngesibheno eso.

(3) INtloko yeSebe kufuneka imazise umfaki wesicelo xa kuthe kwabakho isibheno esifakwe ngomnye umntu ongenguye yena mfaki wesicelo.

(4) Ukuba ngaba isibheno eso sifakelwe nje imiqathango ebekwe ngokwecandelo 54(4) kuphela, iNtloko yeSebe isenokuthi ivakalise ukuba imvume yesicelo sophuhliso lomhlaba yona ayimiswanga okwexeshana.

(5) Umntu onamalungelo achatshazelwayo kukusilela kweNtloko yeSebe ekuthatheni isigqibo ngesicelo singaphelanga esi sithuba sikhankanywe kwicandelo 54(1) usenokuthi afake isibheno ngolulibaziso ngokuthi anike uMphathiswa wePhondo isaziso esibhaliweyo sesibheno eso, achaze nezizathu zoko kubhena.

(6) UMphathiswa wePhondo kufuneka athi singadlulanga isithuba esibekiweyo, asiqwalasele isibheno eso ngokwenkqubo ebekiweyo, kwaye usenokuthi-

(a) asiqinisekise okanye asibeke ngolunye uhlobo okanye asirhoxise eso sigqibo; okanye
(b) xa isisibheno esifakwe ngokwemiqathango yecandelwana (5), enze isigqibo ngesicelo eso.

(7) UMphathiswa wePhondo kufuneka ukuba athi, zingekadluli iintsuku ezili-14 emva kokwenza kwakhe isigqibo, abazise ngento ebhaliweyo abo bachaphazelekayo kwisibheno eso ngesigqibo sakhe.

(8) UMphathiswa wePhondo usenokuthi abeke iintlawulo ngesibheno, ekufuneka ihlawulwe ngulowo ufaka isibheno ngokwemiqathango yeli candelo.

Ukuphelelwa kolwamkelo lophuhliso lomhlaba

57. (1) Ulwamkelo lwesicelo sophuhliso lomhlaba phantsi kwecandelo 54 luyaphelelwa ukuba ngaba ezi mfuneko zilandelayo azifezekiswanga sade saphela isithuba seminyaka eli-10 emva komhla wokuqalisa kwalo ukusebenza olo lwamkelo:

(a) ulwamkelo lukamasipala lweplani yesakhiwo ebekucetywa ukusisebenzisa kuloo mhlaba ngokwemiqathango yelungelo lokusebenzisa eliphathelele kuphuhliso lomhlaba olwamkelweyo; kananjalo

(b) ukuqalisa ngokwakha eso sakhiwo sicetywayo sikule plani ikhankanywe kumhlathi *(a)*.

(2) Umntu ongumnini walo mhlaba uchaphazelekayo usenokuthi afake isicelo kwiNtloko yeSebe sokuba sandiswe esi sithuba sikhankanywe kwicandelwana (1).

(3) Isicelo sokwandiselwa isithuba kufuneka singeniswe ngento ebhaliweyo kwiNtloko yeSebe phambi kokuba siphele esi sithuba sikhankanywe kwicandelwana (1).

(4) Xa iqwalasela isicelo sokwandiselwa isithuba, iNtloko yeSebe kufuneka ithathele ingqalelo ukuba ngaba—

(a) eziya meko zazikhona ngeliya xesha lokwamkelwa kwesicelo okokuqala zitshintshe kakhulu na;

(b) iimfuneko zomthetho okanye zomgaqo-nkqubo zokuvunywa ezazifuneka ngeliya xesha lokwamkelwa kwesicelo okokuqala zitshintshe kakhulu na; nokuba

(c) ngaba kukho imfuneko yemiqathango emitsha yolwamkelo.

ISAHLUKO VI

IINQOBO ZOCWANGCISO LOKUSETYENZISWA KOMHLABA

Ukusetyenziswa kweenqobo zocwangciso lokusetyenziswa komhlaba

58. Iinqobo zocwangciso lokusetyenziswa komhlaba ezichazwe kwesi Sahluko zichaphazela zonke izigqeba zikarhulumente ezinoxanduva lokusetyenziswa kwemithetho elawula ukusetyenziswa nokuphuhliswa komhlaba nelokunika izikhokelo—

(a) zokulungiselela isikhokelo sophuhliso lomhlaba, sokusamkela nokusisebenzisa okanye isikim sesimo somhlaba nezawo nawuphi na umgaqo-nkqubo okanye umthetho onxulumene nocwangciso lokusetyenziswa komhlaba;

(b) zawo nawaphi na amanyathelo okuqinisekisa uphuhliso olunozinzo;

(c) ezoqwalaselo lwaso nasiphi na isiphathamandla esifanelekileyo ngokwemiqathango yalo Mthetho kunye nesaso nasiphi na esinye isiphathamandla esifanelekileyo kwisicelo esinefuthe ekusetyenzisweni nasekuphuhlisweni komhlaba; kunye

(d) nesokwenziwa komsebenzi ngokwemiqathango yalo Mthetho okanye yawo nawuphi na omnye umthetho olawula ucwangciso lokusetyenziswa komhlaba.

Iinqobo zocwangciso lokusetyenziswa komhlaba

59. (1) Ucwangciso lokusetyenziswa komhlaba luhamba ngokwezi nqobo zobulungisa bezomhlaba zilandelayo:

(a) ukungalingani kwamandulo kwezomhlaba nakolunye uphuhliso kufuneka kulungiswe ngokuphuculwa kofikelelo emhlabeni nolokusetyenziswa kwawo;

(b) izikhokelo zophuhliso lomhlaba nomgaqo-nkqubo kuwo onke amanqanaba oburhulumente kufuneka ziqwalasele umba wobandakanyeko lwabantu neendawo ezazifudula zichwethelwa bucala, kugxininiswe ngakumbi

kwiindawo zasematyotyombeni neendawo ezibhuqwa yintlupheko nenkxwaleko;

(c) iindlela zocwangciso lomhlaba, kubandakanya izikim zemo yomhlaba, kufuneka zibandakanye nobonelelo ngokulungiswa komba wokufikelela emhlabeni kwabahlali nabantu abasingeleke phantsi;

(d) iinkqubo zolawulo lokusetyenziswa komhlaba kufuneka zibandakanye zonke iingingqi zikamasipala kwaye zibandakanye ubonelelo olulunga kwiimeko zonke nolulufaneleyo ulawulo lweengingqi ezisingeleke phantsi neendawo zasematyotyombeni;

(e) iinkqubo zophuhliso lomhlaba kufuneka zibandakanye izibonelelo ezilungiselela ufikelelo noququzelelo loqiniseko ngeendawo zokuhlala ezinokhuseleko nokuphuculwa ngezigaba kweendawo zasematyotyombeni;

(f) esi siphathamandla sifanelekileyo sikhankanywa kulo Mthetho okanye esinye isiphathamandla esifanelekileyo siqwalasela isicelo esiphambi kwaso, asinakho ukuba sithintelwe okanye senzelwe unyino ekusebenziseni kwaso igunya laso ngenxa nje yokuba ixabiso lomhlaba okanye isakhiwo liya kuchaphazeleka sisiphumo seso sicelo; kwaye

(g) kufuneka livunywe ilungelo lomnini lokuphuhlisa umhlaba ngokuhambelana namalungelo okusebenzisa akhoyo.

(2) Ucwangciso lokusetyenziswa lusekelwa zezi nqobo zilandelayo zozinzo lomhlaba:

(a) ucwangciso lokusetyenziswa komhlaba kufuneka—

(i) lukhuthaze uphuhliso lomhlaba olungawudlakaziyo umhlaba, luzilondolozayo izinto ezibubutyebi nolungekho ngaphaya kwamandla eso siphathamandla sichaphazelekayo ngokwalo Mthetho okanye esinye isiphathamandla esifanelekileyo, ngokwasezimalini nangokwakum-sebenzi weziko nowolawulo yeminye;

(ii) luqinisekise ukuba uqwalaselwa ngakumbi umba wokhuseleko kumhlaba wolimo oxabiso liphezulu, omfano iyodwa nosenokuba nexabiso eliphezulu;

(iii) luqinisekise ngemfano yamanyathelo okusetyenziswa komhlaba okuhambelanayo nezixhobo zokulawulwa kokusingqongileyo;

(iv) lukhuthaze impumelelo nolingano kwindlela ezisebenza ngayo iimarike zomhlaba;

(v) luziqwalasele iindleko ajongene nazo nanokujongana nazo kwixa elizayo onke amaqela kuphuhliso lomhlaba ngakwicala lezibonelelo neleenkonzo zentlalo;

(vi) lukhuthaze uphuhliso lomhlaba kwiindawo ezinozinzo, futhi likucuthe ukunaba kweedolophu;

(vii) lube nesiphumo esikukukwazi kwabahlali ukuziphilisa; kananjalo

(viii) luzamele ukuqinisekisa ukuba iimfuno eziphambili zabo bonke abemi kukhawulelwana nazo ngendlela efikelelekayo ngakwicala leendleko;

(b) ukhuselo oluqinileyo lokusingqongileyo kufuneka kuqinisekiswe ngalo ngokuthatha ingqwalaselo yoku kulandelayo:

(i) iindawo zendalo, imityino yemfundo ngezinto eziphilileyo neendawo eziphila kuzo kunye neengingqi ezibaluleke kakhulu ngokweentlobo ngeentlobo zendalo ezikuzo;

(ii) ubutyebi bephondo ngakwicala lelifa lemveli nokhenketho;

(iii) iindawo ezingalufanelanga uphuhliso, kubandakanya amathafa athandwa ziimpuphuma, amaqhina anyuka kakhulu, amagxobho neendawo ezinomthombo neendawo ezinembonakalo entle neendawo zendalo ezibaluleke kakhulu ngokwenkcubeko; kunye

(iv) izinto zoqoqosho ezinokuqhutywa kwingingqi leyo okanye kummandla lowo;

(c) ukumelana nenguqu kwanezicwangciso eziliqili zokumelana nenguqu kwimo yezulu kufuneka ziqulunqiwe, futhi zithathelwe ingqalelo kucwangciso lokusetyenziswa komhlaba;

(d) ubonelelo ngamandla afunekayo, ulondolozo lwawo nolawulo lwawo kufuneka luthathelwe ingqalelo kucwangciso lokusetyenziswa komhlaba;

(e) ukusetyenziswa komhlaba ngendlela enokhuseleko kufuneka kuqinisekiswe ngako ngokuthi kuqatshelwe izinto ezifana nokunyuka komphakamo wolwandle, iziphango, iimpuphuma, iingozi zomlilo nendlela ome ngayo umhlaba;

(f) ukuhlalwa komhlaba ngokungekho mthethweni kufuneka kuthintelwe, kambe ke zithathelwe ingqalelo iindlela zophuhliso lwemihlaba kwiindawo zasematyotyombeni; kananjalo

(g) uphuhliso kufuneka luhambe ngokweenqobo, futhi kufuneka lubeke phambili izinto eziya kuba luncedo phambili phaya ngokwasentlalweni, kwezoqoqosho nakwezokusingqongileyo.

(3) Ucwangciso lokusetyenziswa komhlaba kufuneka lusekelwe kwezi nqobo zocikizeko zilandelayo:

(a) uphuhliso lomhlaba kufuneka luzisebenzise kangangoko izinto ezikhoyo: izinto ezibubutyebi, izibonelelo, ulimo, umhlaba, izimbiwa kunye nezilungiseleyo;

(b) kufuneka kuphuhliswe izixeko needolophu ezihlanganisekileyo, ngokuthi—

(i) iinkalo zentlalo, ezoqoqosho, ezolawulo nezolwakheko zihlanganiswe xa kuphuhliswa umhlaba;

(ii) kukhuthazwe uphuhliso lomhlaba oluxhasanayo kwiindawo zasemaphandleni nezasezidolophini;

(iii) kukhuthazwe ukufumaneka kweendawo zokuhlala nezokusebenza ezisondeleleneyo okanye ezihlanganisekileyo;

(iv) kukhuthazwe ukusetyenziswa komhlaba ngeendlela ngeendlela ezahlukeneyo;

(v) ukunaba kweedolophu kuthintelwe kuze ke kukhuthazwe uhlanganiseko lwezixeko needolophu ekukho kuzo iindawo zokuhlala ezininzi nezisondeleleneyo;

(vi) kulungiswe ubugwenxa beendlela zophuhliso lweendawo zokuhlala zamandulo; kananjalo

(vii) kukhuthazwe umgangatho nosebenziseko neendawo zemihlaba kawonke-wonke; kananjalo

(c) umgaqo-nkqubo, indlela yolawulo kwakunye nemithetho kufuneka zikhuthaze uphuhliso lomhlaba olukhawulezayo.

(4) Ucwangciso lokusetyenziswa komhlaba lusekelwa phezu kwezi nqobo zolawulo olucikizekileyo zilandelayo:

(a) onke amanqanaba oburhulumente kufuneka aqinisekise ngendlela emanyanisekileyo yocwangciso lokusetyenziswa komhlaba;

(b) onke amasebe karhulumente kufuneka alenze igalelo lamacandelo awo, kunjalo nje azifezekise azithobele imfuneko ezibekwa ngumthetho xa equlunqa izikhokelo zophuhliso lomhlaba okanye esenza izilungiso kuzo;

(c) iimfuneko zawo nawuphi na umthetho onxulumene nomhlaba kufuneka zifezekiswe ngexesha;

(d) ukuqulunqwa kwezicwangciso zomhlaba, kwemigaqo-nkqubo, kunye nezikim zemo yomhlaba neenkqubo zophuhliso lomhlaba nezokwenziwa kwezicelo zokusetyenziswa komhlaba nokwenziwa kwazo izilungiso, kufuneka kubandakanye neenkqubo eziselubala zokuthatha koluntu inxaxheba eziya kuthi zinike onke amaqela ithuba lokwenza igalelo kwimiba ewachaphazelayo;

(e) imithetho, iinkqubo neendlela zolawulo ezinxulumene nophuhliso lomhlaba kufuneka zicace, zikhuthaze ukwazi ukubona okunokwenzeka kungekenzeki, intembeko nolwamkeleko ngenjongo yokwazisa nokuxhobisa uluntu;

(f) isikhokelo sophuhliso lomhlaba, isikim semo yomhlaba okanye umgaqo-nkqubo kufuneka ziqulunqwe ngezigaba, kwaye isigaba sophuhliso ngasinye kufuneka sibandakanye uthethwano noluntu nezo zigqeba zikarhulumente zifanelekileyo kwaye kufuneka ziqinisekiswe sisiphathamandla esifanelekileyo;

(g) iinkqubo zokwenziwa kwezigqibo kufuneka ziqulunqwe ngenjongo yokunciphisa ifuthe elibi kwezemali, kwezentlalo okanye kwezokusingqongileyo;

(h) iinkqubo zokufakwa kwezicelo kufuneka zicikizeke kunjalo nje zinikwe imfano enye futhi namaxesha kufuneka agcinwe ngawo onke amaqela; kananjalo

(i) ukwenziwa kwezigqibo kuwo onke amanqanaba oburhulumente kufuneka kusekelwe kwiinkqubo zocwangciso lokusetyenziswa komhlaba ezisemthethweni.

(5) Ucwangciso lokusetyenziswa komhlaba lusekelwa kwinqobo yolomelelo lomhlaba, apho izicwangciso zomhlaba zilungela iimeko zonke, ngokunjalo

nakwimigaqo-nkqubo, nakwiinkqubo zolawulo lokusetyenziswa komhlaba ngenjongo yokuqinisekisa uzinzo kwiindlela zokuphila zabahlali beendawo ezinokuthwaxwa kakhulu lifuthe lenguqu kwezoqoqosho nakwindalo ezingqongileyo.

(6) UMphathiswa wePhondo usenokuthi abeke ezinye iinqobo zocwangciso lokusetyenziswa komhlaba.

(7) UMphathiswa wePhondo kufuneka ukuba phambi kokuba abeke ezi nqobo zikhankanywe kwicandelwana (6)—

(a) apapashe isiqulunqo sezo nqobo kumajelo eendaba ngendlela eya kwenza ukuba oomasipala nabanye abantu abachaphazelekayo bafumane ithuba lokungenisa izimvo zabo ngeso siqulunqo seenqobo; kananjalo

(b) aziqwalasele ezi zimvo zingeniswe ngokomhlathi *(a)*.

ISAHLUKO VII

ULWAPHULELO NOGUNYAZISO

Ulwaphulelo nogunyaziso lwePhondo

60. (1) UMphathiswa wePhondo usenokuthi, ngesaziso esikhutshwe kwiGazethi yePhondo, enzele umasipala ulwaphulelo kumqathango okhankanywe kwiSahluko III okanye IV, ngenjongo yokuphungula umthwalo wezemali okanye wolawulo—

(a) kwezi nkqubo zokufakwa kwezicelo zihlanganisiweyo zikhankanywe kwicandelo 67;

(b) kubonelelo ngezindlu ngoncediso-mali oluvela kurhulumente wesizwe; okanye

(c) kuphuculo ngezigaba lweendawo zamatyotyombe esele zikhona.

(2) Kwimeko yongxamiseko, uMphathiswa wePhondo usenokuthi, ngento ebhaliweyo, agunyazise umasipala ukuba aphambuke kwimiqathango yalo Mthetho.

(3) Olu gunyaziso lukhankanywe kwicandelwana (2) luyaphelelwa emva kweentsuku ezingama- 90 emva kokuba lunikiwe, ngaphandle kwaxa luthe lwarhoxiswa kwangaphambi kokuphelelwa kwalo.

(4) Kule meko yongxamiseko ikhankanywe kwicandelwana (2), eziya nqobo zikhankanywe kwiSahluko VI zihlala zisebenza.

(5) UMphathiswa wePhondo kufuneka—

(a) zithi zingekapheli iiyure ezingama-48 lunikiwe olu gunyaziso lukhankanywe kwicandelwana (2), okanye kwenziwe isilungiso kulo okanye kurhoxiswe umqathango kulo phantsi kwecandelwana (6), ayazise iKhabhinethi yePhondo ngalo, futhi ayalele nokuba kupapashwe isaziso ngayo kwiGazethi yePhondo; kananjalo

(b) zithi zingekapheli iintsuku ezili-14 emva kogunyaziso olo okanye emva kokwenziwa izilungiso okanye kokurhoxiswa komqathango, angenise ingxelo yoko kwiKhabhinethi yePhondo.

(6) UMphathiswa wePhondo usenokuthi abeke, arhoxise okanye alungise imiqathango yolwaphulelo okanye yogunyaziso phantsi kwecandelwana(1) okanye (2).

Ulwaphulelo olunxulumene nolwahlulwa-hlulo kunye nohlanganiso

61. (1) Ulwahlulwa-hlulo okanye uhlanganiso lomhlaba lweziza zomhlaba lunolwaphulelo ekusebenziseni amacandelo 36(1) nele-38(1) ukuba lusukela—

(a) ekusetyenzisweni kwesigqibo senkundla; okanye

(b) ekuthathweni komhlaba ngokusemthethweni.

(2) Umasipala usenokuthi, ngokwemiqathango yecandelo 43, abonelele alawule ulwaphulelo ekusetyenzisweni kwecandelo 36(1) okanye 38(1) kwiintlobo zolwahlwa-hlulo okanye zohlanganiso lweziza zomhlaba, kubandakanya nolwahlulwa-hlulo okanye uhlanganiso lweziza zomhlaba oluvela koku kulandelayo:

(a) isilungiso esincinane kumda ophakathi kweziza zomhlaba ezibini okanye nangaphezulu;

(b) uhlanganiso lwendawo kawonke-wonke evaliweyo kunye nesiza esayame kuyo;

(c) ulwakhiwo lwesitalato sikawonke-wonke okanye esimiselweyo okanye ukwenza utshintsho kuso;

(d) ubhaliso lomhlaba okumhlaba onomnye umnini okanye isivumelwano soqeshiselwano—

(i) ngobonelelo okanye ngokufakwa kwemibhobho yamanzi, iintambo

zombane, imibhobho yelindle, imibhobho yegesi okanye ye-oyile nemveliso ye-oyile sisigqeba sikarhulumente okanye egameni laso okanye ngumniki wenkonzo;

(ii) ngobonelelo okanye ngokufakwa kweentambo zoqhagamshelwano ngumfaki weentambo zoqhagamshelwano onephepha-mvume okanye egameni lakhe;

(iii) ukunikwa kwelungelo lokusebenzisa indlela;

(iv) ukubekwa konyino lomphakamo; okanye

(v) ukunikwa kwelungelo lokuhlala okanye lokusebenzisa umhlaba womnye umntu;

(e) ukusetyenziselwa ulimo komhlaba kuphela ukuba oko kusetyenziswa—

(i) kufuna imvume phantsi kwemithetho elawula ulwahlulwa-hlulo lomhlaba wolimo; nokuba

(ii) akukhokeleli ekunabeni kommandla wedolophu; okanye

(f) kwiimeko ezizodwa, ukuba ulwaphulelo alunafuthe libi kucwangciso lukamasipala lokusetyenziswa komhlaba okanye kwilungelo lakhe nawuphi na umntu okanye koko akulindele ngokufanelekileyo.

(3) UNocanda-Jikelele usenokuthi asamkele okanye asenze izilungiso isicwangciso jikele okanye idayagram yolwahlulwa-hlulo okanye yohlanganiso lwezi ziza zomhlaba zikhankanywe kweli icandelo ngaphandle koqinisekiso olubhaliweyo oluvela kumasipala lokuba ulwahlulwa-hlulo okanye uhlanganiso lweziza zomhlaba lwenzelwe ulwaphulelo ngokwemiqathango yeli candelo.

ISAHLUKO VIII

IKOMITI YEENGCEBISO NGOCWANGCISO

IKomiti yeeNgcebiso ngoCwangciso

62. (1) UMphathiswa wePhondo usenokuthi amisele iKomiti yeeNgcebiso ngoCwangciso.

(2) Le Komiti iyacebisa yenze izindululo kuMphathiswa wePhondo xa athe wayicela, ngokuphathelele—

(a) kwimiba echaphazela ukusetyenziswa kwalo Mthetho; okanye

(b) kwimigaqo enokuthi ibe yimfuneko ngokwemiqathango yalo Mthetho.

Ukuma kweKomiti

63. (1) Amalungu ale Komiti kufuneka anyulwe nguMphathiswa wePhondo abandakanye—

(a) umsebenzi weSebe eli okhethwe yiNtloko yeSebe, abe lilungu ngokwesikhundla sakhe; kunye

(b) namalungu angekho ngaphantsi kwesihlanu kodwa engekho ngaphezulu kweshumi anokuthi uMphathiswa wePhondo awabeke.

(2) Amalungu ale Komiti kufuneka anyulwe ngokwezifundo zoqeqesho aziphumeleleyo namava awo nolwazi lwawo kucwangciso lokusetyenziswa komhlaba nolwemiba enxulumene nokusetyenziswa kwalo Mthetho, kwaye kufuneka abe ngabahleli isigxina kweli Phondo.

(3) La malungu ale Komiti ikhankanywe kwicandelwana (1)*(b)* asenokunyulwa kuphela emva kokuba uMphathiswa wePhondo, ngesaziso esikhutshwe kwiGazethi yePhondo, nakwamanye amajelo eendaba anokuthi uMphathiswa wePhondo awabone efanelekile, ethe wacela amaqela achaphazelekayo ukuba athi singekapheli esi sithuba sikhankanywe kwisaziso eso angenise amagama abantu abakufaneleyo ukuba banganyulwa.

Ixesha lobulungu nemiqathango yenkonzo

64. (1) Ilungu linyulelwa isithuba seminyaka emithathu, esithi sihlaziywe kube kanye.

(2) Isithuba selungu siye sivuleleke ukuba—

(a) ilungu elo alibikho kwiintlanganiso zeKomiti zide zibe mbini zilandelelana kungekho mvume kasihlalo weKomiti;

(b) ilungu lithe lafaka isicelo sokuyeka ngento ebhaliweyo kusihlalo weKomiti;

(c) ilungu lithe lakhutshwa kwiKomiti le phantsi kwecandelwana (3); okanye

(d) ukuba ilungu liye lasweleka.

(3) UMphathiswa wePhondo usenokulisusa ilungu leKomiti ukuba zikhona izizathu ezaneleyo lokuba lisuswe.

(4) Isithuba esingenamntu eKomitini kufuneka sivalwe nguMphathiswa wePhondo ngokwemiqathango yecandelo 63.

(5) Ilungu elinyulwe ngokwakwicandelwana (4) liba sebulungwini sesi sithuba besisasele seli lungu lingene endaweni yalo.

(6) UMphathiswa wePhondo kufuneka abeke usihlalo kunye nosekela-sihlalo wale Komiti kula malungu ayo.

(7) UMphathiswa wePhondo usenokuthi abeke eminye imiqathango yokunyulwa engekhoyo apha kweli candelo.

(8) La malungu eKomiti akhankanywe kwicandelo 63(1)*(b)* kufuneka anyulwe phantsi kwaloo miqathango ithe yabekwa nguMphathiswa wePhondo kwaye kufuneka ahlawulwe umvuzo kunye nezithabathaba anikwe nembuyekezo ngeendleko angene kuzo ngemvumelwano nelungu leKhabhinethi yePhondo elijongene nezemali.

Iintlanganiso zeKomiti

65. (1) IKomiti le isenokuthi, ngemvume yoMphathiswa wePhondo, ibeke imithetho ephathelele ekuthathweni kwezigqibo yiKomiti neyokuhlalwa kweentlanganiso zeKomiti neenkqubo zazo.

(2) Iintlanganiso zeKomiti le kufuneka zihlalwe ngamaxesha abekwe ngusihlalo weKomiti kwiindawo ezikhethwe nguye ngokwemithetho yeKomiti.

(3) IKomiti isenokuthi inyule ikomitana engaphantsi kwayo eyenziwe ngamalungu ayo anaso isakhono esiyimfuneko kumba othile ekufuneka acebise uMphathiswa wePhondo ngawo.

ISAHLUKO IX

IZIBONELELO NGOKUBANZI

Isigaba 1

Uvandlakanyo lwemiba yocwangciso lokusetyenziswa komhlaba

Uvandlakanyo nezindululo zabacwangcisi ababhalisiweyo

66. (1) Umasipala kufuneka ukuba aqwalasele uvandlakanyo olubhaliweyo nesindululo somcwangcisi obhalisiweyo okhethwe ngumasipala lowo, ethathele ingqalelo icandelwana (2), phambi kokuba enze isigqibo—

(a) ngokwamkela isikhokelo sophuhliso lomhlaba okanye ngokwenza izilungiso kuso;
(b) ngokwamkela isikim sesimo somhlaba okanye ngokwenza izilungiso kuso;
(c) ngokotshintsho lwemo yomhlaba;
(d) ngolwahlulwa-hlulo lwengingqi yomhlaba ube ziziza ezingama-20 olukhankanywe kwisicelo sokusetyenziswa komhlaba;
(e) ngokuvalwa kwendawo kawonke-wonke; okanye
(f) ngokususa umqathango onyinayo ukuba ubhekisele kwinguqu ekusetyenzisweni komhlaba, okanye ukuwumisa okwexeshana okanye ukuwenza izilungiso loo mqathango.

(2) URhulumente wePhondo usenokuthi ngokucelwa ngumasipala ongenazo iinkonzo zomcwangcisi obhalisiweyo anokumsebenzisa, anyule umcwangcisi obhalisweyo wokuba enze olu vandlakanyo nezi zindululo zikhankanywe kwicandelwana (1), athathele ingqalelo imithetho elawula ukunyulwa okanye ukubolekwa kwinkonzo karhulumente okanye ekufunyanweni kweenkonzo liSebe eli.

(3) URhulumente wePhondo usenokuthi angene kwisivumelwano nalo masipala ukhankanywe kwicandelwana (2) ngokuphathelele kubutyala ngeendleko ezihamba noku kunyulwa komcwangcisi obhalisiweyo kukhankanywe kwicandelwana (2).

(4) INtloko yeSebe okanye uMphathiswa wePhondo, ngokwalowo ufanelekileyo, kufuneka aqwalasele uvandlakanyo olubhaliweyo nesindululo somcwangcisi obhalisweyo onyulwe ngokwemiqathango yemithetho elawula ukunyulwa okanye ukubolekwa kwinkonzo karhulumente okanye ekufunyanweni kweenkonzo liSebe eli, phambi-

(a) kokwenza isigqibo ngokwamkela isikhokelo sophuhliso lomhlaba sephondo okanye sommandla wephondo okanye phambi kokwenza izilungiso kuso;

(b) kokuvakalisa eziya zimvo zikhankanywe kwicandelo 12(4) okanye 13(2) ngokwamkelwa okanye ngokwenziwa izilungiso kwesikhokelo sophuhliso lomhlaba sikamasipala;

(c) kokuvakalisa ezi zimvo zikhankanywe kwicandelo 26(4) okanye 27(2) ngokwamkelwa okanye ngokwenziwa izilungiso kwesikim semo yomhlaba;

(d) kokuvakalisa eziya zimvo zikhankanywe kwicandelo 45 ngesicelo sokusetyenziswa komhlaba;

(e) kokuvakalisa eziya zimvo zikhankanywe kwicandelo 52 ngesibheno; okanye

(f) kokwenza isigqibo ngesi sicelo sophuhliso lomhlaba sikhankanywe kwiSahluko V.

Isigaba 2

Iinkqubo zezigqibo ezimanyanisiweyo

Iinkqubo zezigqibo ezimanyanisiweyo

67. (1) INtloko yeSebe, oomasipala nezinye izigqeba zikarhulumente ezisebenzisa eminye imithetho ephathelele kwizinto ezenziwayo ezifuna ulwamkelo phantsi kwalo Mthetho naphantsi kwaloo mithetho—

(a) kufuneka bazamele ukuzinxibelelanisa nokuzingqamanisa iimfuneko zenkqubo yokwenziwa kwezigqibo ngokwakulo Mthetho naloo mithetho, ngenjongo yokunqanda uphinda-phindo; kananjalo

(b) basenokuthi bangene kwizivumelwano ezibhaliweyo ngenjongo yokunqanda uphinda-phindo ekungenisweni kweenkcukacha okanye ekusetyenzisweni kweenkqubo.

(2) Esi sivumelwano sikhankanywe kwicandelwana (1)*(b)* sisenokuthi—

(a) silungiselele ulwamkelo oluhlanganisiweyo;

(b) sikwenze lula ukungeniswa okuhlanganisiweyo, uthethwano noluntu naphakathi kwamanqanaba oburhulumente novandlakanyo lwezicelo ezininzi ngoomasipala yiNtloko yeSebe nezinye izigqeba zikarhulumente, kuphuhliso lomhlaba oluthile okanye kusetyenziso lomhlaba oluthile olucetywayo;

(c) sikwenze lula ukupapashwa kunye kwezigqibo zoomasipala, ezeNtloko yeSebe nezezinye izigqeba zikarhulumente kuphuhliso lomhlaba oluthile okanye kusetyenziso lomhlaba oluthile; okanye

(d) sibonelele ngesikhokelo sohlanganiso lweemfuneko zeenkqubo zokufakwa kwezicelo ezibekwa yimithetho kamasipala, ngulo Mthetho okanye yeminye imithetho.

(3) Olu lwamkelo luhlanganisiweyo lukhankanywe kwicandelwana (2)*(a)* lunokwenziwa kuphela ukuba—

(a) kungenwe kwisivumelwano esibhaliweyo zizigqeba zikarhulumente ezivuma ulwamkelo oluhlanganisiweyo;

(b) zonke izibonelelo zemithetho kamasipala efanelekileyo, lo Mthetho neminye imithetho zifezekiswe;

(c) ulwamkelo lucacisa—

(i) izibonelelo elwenziwe phantsi kwayo; kunye

(ii) nezigqeba zikarhulumente eziluvumileyo; kananjalo

(d) izigqibo zezigqeba zikarhulumente eziyinxenye yolwamkelo oluhlanganisiweyo zipapashwe kunye kumajelo eendaba ukuba kuyafuneka ukuba zipapashwe.

(4) UMphathiswa wePhondo usenokuthi enze imigaqo okanye akhuphe izikhokelo zokunxibelelanisa nokungqamanisa iimfuneko ngokwemiqathango—

(a) yalo Mthetho; kunye

(b) neyeminye imithetho enxulumene nezinto ezenziwayo ezifuna ulwamkelo ngokwemiqathango yalo Mthetho.

(5) Umasipala okanye iNtloko yeSebe isenokuthi yenze isigqibo ngesicelo esikwafuna ulwamkelo phantsi kwemiqathango yeminye imithetho ngokwenkqubo ebekwa kuloo mithetho, kodwa kuphela xa ngaba inkqubo leyo iyahambelana neefuneko zemithetho kamasipala efanelekileyo kunye naloMthetho.

(6) INtloko yeSebe isenokuthi yenze isigqibo ngesi sicelo sikhankanywe kwicandelo 54 ngokwenkqubo ebekwe yimithetho kamasipala efanelekileyo, kodwa kuphela ukuba ngaba loo nkqubo iyazifezekisa iimfuneko zalo Mthetho.

Isigaba 3:

Uqinisekiso lothotyelo, izigqitho nezohlwayo

Amagunya okuhlola nokuqinisekisa uthotyelo

68. (1) Umsebenzi okhethwe yiNtloko yeSebe usenokuthi angene emhlabeni okanye kwisakhiwo ngenjongo—

(a) yokwenza uhlolo lokufumanisa ukuba ngaba umntu uyayithobela na imiqathango yolwamkelo olunikwe phantsi kwecandelo 54 okanye 56(6) okanye yesaziso esikhutshwe ngokwemiqathango yecandelo 70;

(b) yokwenza uhlolo lokufumanisa ukuba ngaba umntu uyayithobela na imiqathango yecandelo 53(1); kananjalo

(c) neyokuthatha naliphi na inyathelo eligunyaziswa phantsi kwalo Mthetho lokuqinisekisa ukuthotyelwa kwemiqathango yolwamkelo olunikwe phantsi kwecandelo 54 okanye 56(6) okanye lokulungisa utyeshelo lwayo okanye utyeshelo lwecandelo 53(1) okanye yokulungisa.

(2) Xa lo msebenzi ubekiweyo esenza uvandlakanyo olu hlolo lukhankanywe kwicandelwana (1)*(a)* okanye *(b)*, umsebenzi obekiweyo usenokuthi-

(a) acele ukuba makungeniswe irekhodi, uxwebhu okanye into ethile eya kuthi incede kuhlolo olo;

(b) enze iikopi, okanye athathe izicatshulwa kulo naluphi na uxwebhu oluthe lwangeniswa phantsi komhlathi *(a)* okanye oluthe lwafunyanwa kumhlaba lowo okanye kwisakhiwo eso noluphathelele kuhlolo olo; okanye

(c) asakukhupha irisithi, ayithathe irekhodi, okanye uxwebhu okanye nantoni na ekhankanywe kumhlathi *(b)*.

(3) Akukho mntu unokuthi athintele okanye aphazamise umsebenzi obekiweyo oqhuba uhlolo okanye owenza into yoqinisekiso lokuthotyelwa.

(4) Uhlolo okanye into eyenzelwa uqinisekiso lokuthotyelwa phantsi kwecandelwana (1) kufuneka luqhubeke ngexesha elinokwazelelela nasemva kokuba bekuye kwanikwa umnini okanye umhlali kulo mhlaba okanye kwesi sakhiwo isaziso kwangexesha elinobulali.

(5) Umsebenzi obekiweyo usenokuthi angene emhlabeni okanye kwisakhiwo eso sichaphazelekayo kuphela ngemvume yomntu oselungelweni lokunika loo mvume okanye ngokwemvume okanye ngokwegunya elikhutshwe phantsi kwesigunyanzisi esikwicandelo 69.

(6) Umsebenzi obekiweyo kufuneka ukuba athi akucelwa, avelise isazisi esibonakalisa ukuba unalo igunya elinikwe yiNtloko yeSebe lokuqhuba olo hlolo okanye olo qinisekiso lothotyelo.

(7) Umsebenzi obekiweyo akukho mfuneko yokuba anike isaziso esinobulali okanye nasiphi na isaziso sokungena emhlabeni okanye kwisakhiwo, ngaphandle kwakwisakhiwo ekuhlawa kuso esinomniniso okanye enze into yoqinisekiso uthotyelo ngaphandle kwemvume yomnini okanye yomhlali waloo mhlaba okanye weso sakhiwo engenayo iwaranti, ukuba—

(a) unemihlaba ebambekayo yokukhokelwa ukuba uya kuyinikwa iwaranti xa athe wayicela phantsi kwecandelo 69; kananjalo

(b) ulibaziseko ekufumaneni iwaranti lungenza ukuba ingafezekiseki injongo yohlolo neyoqinisekiso lothotyelo. (8) Ukungena emhlabeni okanye kwisakhiwo okanye kwinto elulwakhiwo phantsi kweli candelo kufuneka kuqhutywe ngengqalelo enkulu nondiliseko nokucwangcisa izinto ezo ekufuneka zibandakanye ingqalelo—

(a) ilungelo lomntu lokuhlonitshelwa isidima sakhe nokusikhusela;

(b) ilungelo lomntu kwinkululeko nakukhuseleko; kunye

(c) nelungelo lomntu lokuba kungangenwa ngokungafanelekanga kubomi bakhe.

Iwaranti

69. Ijaji okanye umantyi usenokuthi, asakuba anelisiwe ziinkcukacha ezinikwe ngokufungelwa zokuba—

(a) umsebenzi obekiweyo uye walelwa ukuba angene emhlabeni okanye kwisakhiwo aselungelweni lokungena kuwo ukuze enze uhlolo okanye apho anokuthi enze uqinisekiso lokuthotyelwa;

(b) umsebenzi obekiweyo unemihlaba ebonakalayo yokuqikelela ukuba akazi kuvunyelwa ukungena kumhlaba okanye kwisakhiwo aselungelweni

lokungena kuso enze uhlolo okanye apho anokuthi enze uqinisekiso lokuthotyelwa;

(c) kukho imihlaba ebambekayo yokukrokrela ukuba olu tyeshelo lukhankanywe kwicandelo 68(1)*(a)* okanye *(b)* lwenzekile kwaye uhlolo lwaloo masango kusenokwenzeka luvelise ubungqina ngolo tyeshelo; okanye

(d) uhlolo olo lunayo imihlaba yokufuneka ngokweenjongo zalo Mthetho,

usenokuthi, xa kuye kwabakho isicelo ngaphandle kwesaziso, akhuphe iwaranti esigunyazisa umsebenzi obekiweyo kunye naye nawuphi na omnye umntu ukuba angene kumhlaba lowo okanye kwisakhiwo eso enze uvandlakanyo okanye aqinisekise uthotyelo.

Isaziso sokulungisa utyeshelo

70. Ukuba ngaba umsebenzi obekiweyo ufumanisa umntu—

(a) etyeshela okanye esilela ekuthobeleni icandelo 53(1); okanye

(b) esilela ukuthobela imiqathango ebekwe phantsi kolwamkelo olunikwe phantsi kwecandelo 54 okanye 56(6),

lo msebenzi ubekiweyo usenokuthi anike loo mntu isaziso esibhaliweyo emcela ukuba makalungise olo tyeshelo okanye olo silelo ekuthobeleni imiqathango.

Isaziso sokulungisa utyeshelo

71. Esi saziso sikhanaknywe kwicandelo 70 sisenokuthi—

(a) siyalele loo mntu sisiwa kuye ukuba ayeke ukwenza into ethile okanye ajike indlela enza ngayo into ethile;

(b) siyalele loo mntu ukuba enze nayiphi na into okanye athathe naliphi na inyathelo eliyimfuneko lokulungisa olo tyeshelo, futhi apho kukho imfuneko akuthintele ukwenzeka kolo tyeshelo kwakhona;

(c) sibeke ixesha elifanele ukuba lingapheli engalulungisanga olo tyeshelo loo mntu;

(d) sicacise ukuba, ukuba loo mntu akasithobeli isaziso eso kwaphambi kokuba liphele elo xesha alibekelweyo, iNtloko yeSebe isenokuthi ithathe naliphi na inyathelo lokulungisa olo tyeshela nelinokuthi limbeke emngciphekweni umntu lowo.

Ukulungisa utyeshelo

72. (1) INtloko yeSebe isenokuthi yenze nayiphi na into okanye ithathe naliphi na inyathelo elinobulali lokulungisa utyeshelo lwemiqathango enikwe phantsi kwecandelo 54 okanye 56(6) okanye unyathelo lwecandelo 53(1), ukuba—

(a) umsebenzi okhethiweyo usinikile isaziso phantsi kwecandelo 70;

(b) isaziso eso siqulathe imiba efanelekileyo njengoko ikhankanywa kwicandelo 71;

(c) lo mntu uthunyelwe isaziso uye akasithobela isaziso eso kwaphambi kokuba liphele ixesha abelibekelwe kwisaziso eso; kananjalo

(d) umhla wokuphelelwa kwexesha lokufakwa kwezicelo phantsi kwecandelo 73(1) uye wadlula okanye ukuba okanye ukuba uvandlakanyo lwesaziso luye lwacelwa, isigqibo soMphathiswa wePhondo sithi iNtloko yeSebe mayibe nento eyenzayo okanye mayibe nenyathelo elithathayo.

(2) INtloko yeSebe isenokuthi ifune imbuyekezo ngeendleko zaloo nto ithe yayenza okanye elo nyathelo ithe yaluthatha phantsi kweli candela kuloo mntu besisiwe kuye esi saziso sikhankanywe kwicandelwana (1)*(a)*.

Uvandlakanyo nguMphathiswa wePhondo

73. (1) Umntu othe wanikwa isaziso phantsi kwecandelo 70 usenokuthi, zingaphelanga iintsuku ezili-14 emva kokuba isaziso eso, enze isicelo kuMphathiswa wePhondo ngento ebhaliweyo, sokuba enze uvandlakanyo lweso saziso.

(2) Asakuba esifumene isicelo esibhaliweyo sokwenza uvandlakanyo, uMphathiswa wePhondo kufuneka athi zingaphelanga iintsuku ezingama-21 emva kokufumana esi sicelo, asivandlakanye esi saziso, aze ke asiqinisekise, okanye asenze iinguqulelo okanye asitshitshise.

Izigqitho nezohlwayo

74. (1) Kusisigqitho ukuba—

(a) umntu atyeshele okanye asilele ukuthobela icandelo 53(1) okanye 68(3);

(b) umntu anike iinkcukacha okanye iimpendulo kwisicelo sophuhliso lomhlaba okanye kwisibheno ngesigqibo esenziweyo ngesicelo sophuhliso lomhlaba, esazi ukuba ezo nkcukacha nezo mpendulo zibubuxoki azichanekanga okanye ziyalahlekisa okanye engakholelwa ukuba zichanekile;

(c) umntu utyeshela okanye uyasilela ekuthobeleni umqathango obekiweyo kulwamkelo olukhankanywa kwicandelo 54 okanye 56(6);

(d) umntu uthintela okanye uphazamisa iNtloko yeSebe ithatha inyathelo phantsi kwecandelo 72; okanye

(e) umntu uyasilela ukuthobela isaziso esinikwe phantsi kwecandelo 70.

(2) Umntu onobutyala bokwenza isigqitho phantsi kwecandelwana (1) asakuba efunyaniswe enetyala usenokufumana isigwebo sefayini okanye sokuvalelwa entolongweni isithuba esingadlulanga kwiminyaka engama-20 okanye zozibini ezi zigwebo.

(3) Umntu ofunyenwe enetyala ngesigqitho phantsi kwalo Mthetho, othi nasemva kokuba efunyenwe enetyala aqhube ngesi senzo afunyenwe enetyala ngaso, uyaqhuba ngaso, unetyala lokusiphinda isigqitho eso kwaye ke angafumana isigwebo sefayini okanye sokuvalelwa entlolongweni isithuba esingadlulanga kwiinyanga ezintathu okanye zozibini ezi zigwebo, ngosuku ngalunye eqhuba okanye eqhubile ngesi senzo.

(4) Ngokuphathelele kwizigqitho, iifayini nezohlwayo, umasipala kufuneka, ubuncinane alungiselele—

(a) izigqitho, iifayini nezohlwayo zokuqinisekisa ukuthotyelwa kwemiqathango—

(i) yezikim zemo yomhlaba;

(ii) le miqathango yolwamkelo ikhankanywe kwicandelo 40; kunye

(iii) namacandelo 30, 36(1) nelama-38(1);

(b) ukwenziwa kophando ngezityholo zotyeshelo kwesikimi solwahlulwa-hlulo lomhlaba sakhe;

(c) ukukhutshwa kwemiyalelo yokuba luyekwe uphuhliso lomhlaba okanye ukusetyenziswa komhlaba ngokungekho mthethweni kwisithuba esibekwe ngobulalali nocingelo, umyalelo lowo onokuthi ubandakanye:

(i) ukuwuvuselela ubuyele kwimeko yawo yangaphambili umhlaba lowo;

(ii) ukwenziwa kwesicelo solwamkelo kumasipala singaphelanga eso sithuba sithe sabekwa ngumasipala; kunye

(iii) nentlawulo yotyeshelo apho luthe olu lwamkelo lukhankanywe kumhlathana (ii) luye lwavunywa; and

(d) ilungelo lomntu othi achaphazeleke ngokuqondakalayo sesi sigqitho lokuba acele umasipala ukuba aphande ngesi sityholo nokuba athathe la manyathelo akhankanywe kumhlathi *(c)*.

Isigaba 4:

Unikezelo lwamagunya

Ukunikezelwa kwamaguya nolwabiwo lwemisebenzi

75. (1) INkulumbuso yePhondo inokuthi inikezele kuMphathiswa wePhondo ngawo nawaphi na amagunya ayo okanye inike nayiphi na imisebenzi yayo ngokwemiqathango yalo Mthetho.

(2) UMphathiswa wePhondo unokuthi anikezele kwiNtloko yeSebe ngawo nawaphi na amagunya akhe okanye anike nayiphi na imisebenzi yakhe ngokwemiqathango yalo Mthetho, ngaphandle kwegunya lokwenza imigaqo

(3) INtloko yeSebe inokuthi inikezele ngawo nawaphi na amagunya ayo okanye inike nayiphi na imisebenzi yayo ngokwemiqathango yalo Mthetho—

(a) kumsebenzi weSebe eli; okanye

(b) kumntu onesikhundla esithile kwiSebe eli.

(4) Olu nikezelo lwamagunya lukhankanywe kumacandelwana (1), (2) okanye (3)—

(a) kufuneka lwenziwe ngento ebhaliweyo;

(b) lusenokuhanjiswa nemiqathango;

(c) lusenokurhoxiswa okanye lwenziwe izilungiso ngento ebhaliweyo yiNkulumbuso yePhondo, nguMphathiswa wePhondo okanye yiNtloko yeSebe, ngokwalowo ufanelekileyo;
(d) lusenokuvumela ukunikezelwa kwelo gunya okanye kwaloo msebenzi;
(e) aluyithinteli iNkulumbuso yePhondo, uMphathiswa wePhondo okanye iNtloko yeSebe, ngokwalowo ufanalekileyo, ekubeni alisebenzise elo gunya okanye awenze loo msebenzi; kananjalo
(f) aluyikhululi iNkulumbuso yePhondo, uMphathiswa wePhondo okanye iNtloko yeSebe, ngokwalowo ufanelekileyo, kuxanduva lokusebenzisa eli gunya linikezelweyo okanye lokwenza lo msebenzi unikezeleyo.

Isigaba 5:

Imigaqo nezikhokelo

Imigaqo nezikhokelo

76. (1) UMphathiswa wePhondo—
(a) kufuneka enze imigaqo ephathelele kwimiba ekufuneka imiselwe;
(b) usenokuthi enze imigaqo ephathele kuwo nawuphi na umba onokuthi umiselwe;
(c) usenokuthi enze imigaqo okanye akhuphe izikhokelo ngokuhambelana nalo Mthetho ngenjongo yokukhawulezisa ukusetyenziswa kwalo Mthetho, ngokuphathelele—
(i) kwiinqobo, kwizimiselo nemigangatho eyimfuneko kucwangciso lokusetyenziswa komhlaba olunocwangco nolunxibelelanisekileyo, ekukhuthazweni kuphuhliso lwentlalo noqoqosho oluhlanganisiweyo, ekubekeni imida yokunaba kwemida yeedolophu okanye kwiintlobo zophuhliso oluvumelekileyo okanye olungavumelekanga ngaphandle kwemida yokunaba kweedolophu;
(ii) ubuncinane bemigangatho yeenkqubo zokufakwa kwezicelo;
(iii) ubuncinane bemigangatho yobonelelo ngezindlu ngoncediso-mali lukarhulumente wesizwe, yeenkonzo zobunjineli, yokusetyenziswa kwamandla, yokumelana nenguqu kwimo yezulu okanye yezilungiselelo zentlalo;
(iv) ubuncinane bemigangatho ephathelele kubungakanani bomhlaba oyimfuneko kwizibonelelo zikamasipala okanye kwezizilungiselelo zikhankanywe kwicandelo 40(3) nomlinganiselo wegalelo likamasipala eliyinxenye nje yenkcitho kamasipala kwezoluntu;
(v) ubuncinane bemigangatho ephathelele kunikezelo lomhlaba okanye kwintlawulo yemali ekhankanywa kwicandelo 40(2)*(b)*;
(vi) iinkqubo zokwenziwa kohlolo nezamanyathelo oqinisekiso uthotyelo akhankanywa kumacandelo 68 ukuya kwelama-73.

(2) UMphathiswa wePhondo usenokuthi enze imigaqo eyahlukeneyo eyenzelwe oomasipala abahlukeneyo ngokwezakhono abanazo zokufezekisa iinjongo zalo Mthetho.

Isigaba 6:

Utshitshiso lwemithetho, nosindiso nezibonelelo zexeshana

Utshitshiso lwemithetho

77. (1) Laa mithetho ikhankanywe kuLuhlu (iShedyuli) iyatshitshiswa ukusukela kumhla wokuqalisa kweli candelo ukusebenza ngokobungakanani obuya bubekwe kwikholam yesithathu yoLuhlu.

(2) Ukhankanyo lwale mithetho idweliswe kuLuhlu kuwo nawuphi na omnye umthetho okanye uxwebhu luthathwa ngokuba lukhankanyo lwalo Mthetho nayo nayiphi na imithetho kamasipala echaphazelekayo.

Usindiso nezibonelelo zexeshana

78. (1) Naluphi na ulwamkelo, ukhetho, imvumelwano, ilungelo okanye ugunyaziso oluthe lwakhutshwa, lwanikwa okanye olusebenzayo ngokwemiqathango yomthetho

otshitshiswayo ngulo Mthetho nobelukho kufuphi nje phambi kokuba uqalise lo Mthetho ukusebenza, luya kuhlala lusebenza kwaye kuthathwa ukuba lukhutshwe okanye lunikwe ngokwalo Mthetho nangokwemiqathango yezo ndawo zifanayo zomthetho kamasipala ochaphazelekayo eso sithuba lwalukhutshelwe okanye lwalunikelwe sona naphantsi kwaloo miqathango lwalukhutshwe okanye lwalunikwe phantsi kwayo ngumthetho otshitshisiweyo, lude ke lube lurhoxisiwe, lwenziwe izilungiso okanye lwandiselwe ixesha phantsi kwaloo mthetho kamasipala uchaphazelekayo.

(2) Nakubeni kukho icandelo 77, naliphi na inyathelo elithathiweyo okanye nasiphi na isicelo esithe senziwa phambi kokuba lo Mthetho uqalise ukusebenza, sisenziwa ngokwemiqathango yomthetho otshitshiswayo ngulo Mthetho sabe singekaqukunjelwa kufuphi nje phambi kokuba uqalise lo Mthetho ukusebenza, kufuneka siqukunjelwe ngokungathi awukasebenzi lo Mthetho.

(3) Imiqathango yoMthetho oyi*Rural Areas Act* ephathelele kucando lomhlaba kunye nokukhutshwa kwetayitile yonikezelo okanye yodluliselo, iyaqhuba ukusebenza kuloo mhlaba wawusebenza kuwo laa Mthetho kufuphi nje phambi kokuba uqalise lo Mthetho ukusebenza, de onke amanyathelo aphathelele kucando lomhlaba nokubhaliswa kweziza ngokwemiqathango yesicwangciso esivunywe phantsi kwecandelo 20(2)*(a)* lalaa Mthetho, aqukunjelwe.

(4) Imiqathango yoMthetho oyi*Less Formal Township Establishment Act* neMigaqo ka-1984 iyaqhuba ukusebenza kumhlaba eyayisebenza kuwo kufuphi nje phambi kokuba uqalise lo Mthetho ukusebenza okanye okhethelwe ulwakhiwo lwelokishi phantsi kwecandelwana (2) de onke amanyathelo anxulumene nolwakhiwo lwelokishi leyo okanye nobhaliso lweziza aqukunjelwe.

(5) Emva kokuqalisa kwalo Mthetho ukusebenza, isilungiso kwiplani yemo yeziza okanye kwisicwangciso ngokubanzi yelokishi eyakhiwa okanye yamkelwa phantsi koMthetho oyi*Less Formal Township Establishment Act* okanye kweMigaqo ka-1984, okanye isilungiso kwiplani eyayiqulunqwe phantsi kwecandelo 20(2)*(a)* loMthetho oyi*Rural Areas Act*, kufuneka yamkelwe ngumasipala ngokwalo Mthetho nangokwemithetho kamasipala echaphazelekayo.

(6) IBhodi yeeNgcebiso ngoCwangciso esekwe phantsi kwecandelo 33 leOdinensi iyaqhuba kwaye isenokuthi iziqukumbele izindululo ebezingekaqukunjelwa okanye ezisebenzayo kufuphi nje phambi kokuqalisa kwalo Mthetho ukusebenza nangemiba eyayidluliselwe kuyo phantsi kwecandelwana (2) ukuze yenze izindululo ngawo.

(7) UMphathiswa wePhondo kufuneka ayitshitshise iBhodi yeeNgcebiso ngoCwangciso ngesaziso esikhutshwe kwiGazethi yePhondo isakuba iqukunjelwe le miba ikhankanywe kwicandelwana (6).

(8) Nakubeni kukho la macandelwana (2) ukuya kwele-(5), uMphathiswa wePhondo usenokuthi, ngenjongo yokuqinisekisa ngocwangco kwinkqubo yenguqu, amisele ukuba uhlobo oluthile lwemiba maluqukunjelwe ngokwalo Mthetho nangokwemiqathango yemithetho kamasipala echaphazelekayo, kananjalo usengamisela nawaphi na amanyathelo okuqinisekisa ngocwangco kwinkqubo yenguqu.

Isigaba 7:

Isihloko esifutshane nokuqalisa

Isihloko esifutshane nokuqalisa

79. (1) Lo Mthetho ubizwa ngokuba nguMthetho woCwangciso Lokusetyenziswa koMhlaba weNtshona Koloni, 2014, kwaye uya kuqalisa ukusebenza ngaloo mhla uthe omiselwe yiNkulumbuso yePhondo ngompoposho okhutshwe kwiGazethi yePhondo.

(2) Phantsi kwecandelwana (1) kusenokubekwa imihla eyahlukeneyo ngokuphathelele kwiingingqi zoomasipala bePhondo ezahlukeneyo.

(3) Ukuba iNkulumbuso imisela imihla eyahlukeneyo yokuqaliswa kwezibonelelo ezahlukeneyo zalo Mthetho, ukubhekisa kwisibonelelo salo Mthetho kumhla wokuqaliswa kwalo Mthetho makucaciswe ngengobhekiso kumhla omiselwe yiNkulumbuso makucaciswe ngengobhekiso kumhla omiselwe yiNkulumbuso kuqliso lwesibonelelo kweindawo kwamasipala ekuthethwa ngayo.

ULUHLU (ISHEDYULI)

IMITHETHO ETSHITSHISWA LICANDELO 77

Inani nonyaka	**Isihloko esifutshane**	**Ubungakanani botshitshiso**
uMthetho 84 ka-1967	uMthetho oyi*Removal of Restrictions Act,* 1967	Wonke apho unikezelwe kwiPhondo eli
uMthetho ka-2007	uMthetho oyi*Western Cape Removal of Restrictions Amendment Act*, 2007	Wonke
uMthetho 88 ka-1967	uMthetho oyi*Physical Planning Act*, 1967	Amacandelo 8, 9, 9(A) nele-12 apho unikezelwe kwiPhondo eli
iOdinensi enguNombolo 20 ka-1974	iOdinensi eyi*Municipal Ordinance*, 1974	Amacandelo 137 nele-138
iOdinensi enguNombolo 18 ka-1976	iOdinensi eyi*Divisional Councils Ordinance*, 1976	Amacandelo138 nele-139
uMthetho 4 ka-1984	uMthetho oyi*Black Communities Development Act*, 1984	Amacandelo 52 nele-57B apho unikezelwe kwiPhondo eli
iOdinensi enguNombolo 15 ka-1985	iOdinensi eyi*Land Use Planning Ordinance*, 1985	Wonke
uMpoposho 100/1987 womhla wama-30 kweyeDwarha (Okthobha) 1987 (iGazethi kaRhulumente enguNombolo 4504)	uMpoposho Owenza iZilungiso onguNombolo 100/1987	Wonke
uMpoposho 6/1992 womhla we-7 kweyoMdumba (Febhuwari) 1992 (iGazethi kaRhulumente enguNombolo 4734)	uMpoposho Owenza iZilungiso onguNombolo 6/1992	Wonke
uMgaqo 168/1994 womhla wama-31 kweyeDwarha 1994 (iGazethi kaRhulumente enguNombolo 16049)	uMpoposho Owenza iZilungiso onguNombolo R.168/1994	Wonke
uMthetho 5 ka-2001	uMthetho oyi*Western Cape Act on the Amendment of the Land Use Planning Ordinance*, 2001	Wonke
uMthetho 7 ka-2002	uMthetho oyi*Western Cape Land Use Planning Ordinance*, 1985, *Amendment Act*, 2002	Wonke
uMthetho 6 ka-2003	uMthetho oyi*Land Use Planning Ordinance*, 1985, *Amendment Act*, 2003	Wonke

Inani nonyaka	**Isihloko esifutshane**	**Ubungakanani botshitshiso**
uMthetho 2 ka-2004	uMthetho oyi*Western Cape Land Use Planning Ordinance*, 1985, *Amendment Act*, 2004	Wonke
uMthetho 5 ka-2005	uMthetho oyi*Land Use Planning Ordinance*, 1985, *Amendment Act*, 2005	Wonke
uMthetho 1 ka-2009	uMthetho oyi*Western Cape Land Use Planning Ordinance*, 1985, *Amendment Act*, 2009	Wonke
uMthetho 2 ka-2011	uMthetho oyi*Western Cape Land Use Planning Ordinance Amendment Act*, 2011	Wonke
uMthetho 3 ka-2011	uMthetho oyi*Western Cape Land Use Planning Ordinance Second Amendment Act*, 2011	Wonke
Imigaqo R.1897/1986 eyashicilelwa kwiGazethi kaRhulumente enguNombolo 10431 yomhla we-12 kweyoMsintsi (Septemba) 1986	Imigaqo yoMthetho ebhekisele kukusekwa kweelokishi nokusetyenziswa komhlaba phantsi koMthetho oyi*Black Communities Development Act*, 1984	Wonke apho ubhekisele kwizikim zeemo zomhlaba ezikhoyo zocwangciso lweedolophu nakwezi zikim zemo yomhlaba zikhankanywe kwicandelo 33
uMthetho 9 ka-1987	uMthetho oyi*Rural Areas Act (House of Representatives*), 1987	Wonke apho unikezelwe kwiPhondo eli
iSaziso sePhondo esinguNombolo 733/1989 esashicilelwa kwiGazethi yePhondo enguNombolo 4606 yomhla wama-22 kweyoMsintsi 1989	Ukusekwa nokwenziwa izilungiso kwezikim zemo yomhlaba nocwangciso lweedolophu zePhondo iCape of Good Hope (Imigaqo ehamba noMthetho oyi*Black Communities Development Act*, 1984)	Wonke
uMthetho 113 ka-1991	uMthetho oyi*Less Formal Township Establishment Act*, 1991	Wonke apho unikezelwe kwiPhondo eli
uMthetho 6 ka-2007	uMthetho oyi*Western Cape Less Formal Township Establishment Amendment Act*, 2007	Wonke
uMthetho 7 ka-1999	uMthetho oyi*Western Cape Planning and Development Act*, 1999	Wonke

IMEMORANDAM YEENJONGO ZOMTHETHO OSAYILWAYO WOCWANGCISO LOKUSETYENZISWA KOMHLABA WENTSHONA KOLONI, 2014

1. INTSUKAPHI

1.1 UMthetho oSayilwayo woCwangciso LokuSetyenziswa koMhlaba weNtshona Koloni 2014 (uMthetho oSayilwayo), ukhawulelana nemfuno yenkqubo yale mihla nenocikizeko yocwangciso lokusetyenziswa komhlaba nelwenza lula uphuhliso olunozinzo kwiPhondo leNtshona Koloni (kwiPhondo). Lo Mthetho uSayilwayo uthundezwe yimfuneko yokuba kuhlaziywe imithetho yomhlaba ngokuphathelele kwindlela yokusetyenziswa komhlaba obusalawulwa yimithetho eyawiswa phambi kowiso loMgaqo-siseko weRiphablikhi yoMzantsi Afrika ka-1996 (uMgaqo-siseko). Into ebalulekileyo kolu hlaziyo nguMthetho oyi*Spatial Planning and Land Use Management Act*, 2013 (uMthetho 16 ka-2013), owathi wavunywa ngomhla we-2 kweyeThupha (Agasti) 2013.

1.2 UMgaqo-siseko unika omathathu amanqanaba oburhulumente iinkalo zomsebenzi eziphathelele kucwangciso. Lo Mthetho uSayilwayo ulungiselela ulawulo locwangciso lwephondo, ucwangciso nophuhliso lommandla, uphuhliso lweedolophu nemimandla yasemaphandleni, ulawulo, inkxaso nokubekwa iliso kocwangciso loomasipala nolawulo lweendawo zikawonke-wonke neendlela zoomasipala ngokuhambelana neli nqanaba.

2. IINJONGO ZALO MTHETHO USAYILWAYO

2.1 Lo Mthetho uSayilwayo ugxininisa kakhulu kwiinjongo ezisixhenxe. Okokuqala, uhlanganisa imithetho kwiPhondo eli ephathelele kucwangciso lwephondo, ucwangciso nophuhliso lommandla, uphuhliso lweedolophu nemimandla yasemaphandleni, ulawulo, inkxaso nokubekwa iliso kocwangciso loomasipala nolawulo lweendawo zikawonke-wonke neendlela zoomasipala olusukela kulwahlulwa-hlulo lomhlaba. Okwesibini, ulungiselela nezikhokelo zophuhliso lomhlaba zephondo. Okwesithathu, ulungiselela nobuncinane bemigangatho yezikhokelo zophuhliso lomhlaba nokuhlanganiswa kwazo ngendlela ecikizekileyo. Okwesine, ulungiselela nobuncinane bezimiselo nemigangatho yolawulo lophuhliso loomasipala olunempumelelo. Okwesihlanu, unika isikhokelo kulawulo lophuhliso. Okwesithandathu, ulungiselela neenqobo zocwangciso lokusetyenziswa komhlaba; okokugqibela ke utshitshisa nemithetho yolawulo lwamandulo.

3. IZIQULATHO ZALO MTHETHO USAYILWAYO

3.1 ISAHLUKO I: UTOLIKO

ISahluko 1 siqulathe iinkcazo-magama.

3.2 ISAHLUKO II: IMISEBENZI YOOMASIPALA NORHULUMENTE WEPHONDO

3.2.1 Ngokwakulo Mthetho uSayilwayo, iSahluko II sichaza ngokubanzi ngolwahlulo loxanduva phakathi kukarhulumente wephondo noomasipala kwiPhondo eli.

3.2.2 Oomasipala banoxanduva locwangciso lomhlaba kwiingingqi zabo. Oomasipala besixeko nabeengingqi kufuneka ukuba ubuncinane, balawule iinkalo ezifanelekileyo zo zezikim zemo yomhlaba, ezezicelo zokusetyenziswa komhlaba ezoqinisekiso ngokuthotyelwa kwemithetho yabo nezigqibo zabo ngokuphathelele kucwangciso lokusetyenziswa komhlaba.

3.2.3 Urhulumente wephondo unoxanduva lokwamkela isikhokelo sophuhliso lomhlaba sephondo kwakunye nezikhokelo zophuhliso lommandla wephondo, apho kufanelekileyo. Kananjalo urhulumente wephondo kufuneka alawule, axhase abeke oomasipala iliso kucwangciso lwabo lokusetyenziswa komhlaba ngenjongo yokuqinisekisa ukuba oomasipala basebenza ngempumelelo kwimisebenzi yabo yocwangciso lokusetyenziswa komhlaba.

3.2.4 Urhulumente wephondo ukwanoxanduva lokwenza izigqibo ngezicelo zophuhliso lomhlaba oluya kuthi lube nefuthe elikhulu kuphuhliso kucwangciso lommandla okanye lwePhondo olunocwangco, olunxibelelanisekileyo okanye olunoxolo okanye kwintlalontle yabahlali bommandla okanye bePhondo ngokubanzi ngenxa yohlobo okanye yobungakanani boko kusetyenziswa komhlaba kucetywayo okanye yefuthe lophuhliso oluninzi phambili phaya. Uphuhliso olunjalo ke luya kufuna ulwamkelo loomasipala nolwephondo.

3.3 ISAHLUKO III: UCWANGCISO LOMHLABA

3.3.1 Lo Mthetho uSayilwayo ufuna ukuba kwenziwe ucwangciso lokuza kwenziwa kwinqanaba loburhulumente lwephondo nakweloomasipala. Urhulumente wephondo uya kusebenzisa isikhokelo sophuhliso lomhlaba sephondo (PSDF) baze bona oomasipala basebenzise izikhokelo zophuhliso lomhlaba zoomasipala (MSDFs). Kwezinye iimeko urhulumente wephondo usenokuqulunqa isikhokelo sophuhliso lommandla wephondo (PRSDF).

3.3.2 Ukqulunqwa nokwamkelwa kwesikhokelo sophuhliso loomasipala lulawulwa nguMthetho oyi*Local Government: Municipal Systems Act*, 2000 (uMthetho 32 ka-2000), oyalela oomasipala ukuba bamkele izikhokelo zophuhliso lomhlaba, njengenxenye yezicwangciso zophuhliso ezihlanganisiweyo. ISahluko III silungiselela obunye ubuncinane bemigangatho yokuqulunqwa kwezikhokelo zophuhliso lomhlaba nezokusetyenziswa kwezikhokelo zophuhliso ngenjongo yokuqinisekisa ucwangciso lomhlaba olunempumelelo koomasipala. Lo Mthetho uSayilwayo ulungiselela ubuncinane beemfuneko zezikhokelo zophuhliso lomhlaba zoomasipala ngokuphathelele kwiziqulatho zazo ukuze kuqinisekiswe ukuba zingqamanisekile nezicwangciso eziliqili nezicwangciso zophuhliso zephondo.

3.3.3 Lo Mthetho uSayilwayo ulungiselela oomasipala ukuba bakhethe ukuba baziseke na iikomiti ezisungulayo zamanqanaba oburhulumente aya kuthi urhulumente wephondo abandakanyeke kuzo ngexesha loqulunqo lwezikhokelo zophuhliso lomhlaba zoomasipala, okanye baqwalasele uvakaliso lwezimvo olunyanzelekileyo loMphathiswa wePhondo phambi kokuba samkelwe isikhokelo sophuhliso lomhlaba sikamasipala ngumasipala lowo. Olu lungiselelo ke lwalo Mthetho uSayilwayo luqinisekisa ukuba urhulumente wephondo uyalinikwa ithuba lokuba avakalise izimvo zakhe ngesikhokelo sophuhliso lomhlaba sikamasipala phambi kokuba samkelwe okanye senziwe izilungiso, into ke leyo eyimfuneko ukuze urhulumente alisebenzise igunya lakhe lokuqinisekisa ukuba oomasipala balisebenzisa ngempumelelo igunya labo njengeziphathamandla ezilawulayo ngokuphathelele kucwangciso. Kananjalo olu lungiselelo luya kuba negalelo ekungqamaniseni imiba yezoqoqosho, ezentlalo nezokusingqongileyo kwindlela eya kuma ngayo ingingqi ethile kwixesha elizayo.

3.4. ISAHLUKO IV: ULAWULO LOPHUHLISO LOOMASIPALA

3.4.1 ISahluko IV silawula izixhobo ezahlukeneyo zolawulo lophuhliso koomasipala. Sibeka ubuncinane bemigangatho ekufuneka bayiqulunqe, bayamkele kwaye bayenze izilungiso ngayo izikim zemo yomhlaba oomasipala. Lo Mthetho uSayilwayo wenza ukuba oomasipala bakhethe ukuba baziseke na iikomiti ezisungulayo zamanqanaba oburhulumente aya kuthi urhulumente wephondo abandakanyeke kuzo ngexesha loqulunqo lwezikhokelo zophuhliso lomhlaba zoomasipala, okanye baqwalasele uvakaliso lwezimvo olunyanzelekileyo loMphathiswa wePhondo phambi kokuba samkelwe isikhokelo sophuhliso lomhlaba sikamasipala ngumasipala lowo. Olu lungiselelo ke lwalo Mthetho uSayilwayo luqinisekisa ukuba urhulumente wephondo uyalinikwa ithuba lokuba avakalise izimvo zakhe ngesikhokelo sophuhliso lomhlaba sikamasipala phambi kokuba samkelwe okanye senziwe izilungiso.

3.4.2 Kananjalo esi Sahluko sikwalungiselela nobuncinane beemfuneko zolu luhlu lwezixhobo zolawulo lophuhliso, oko kukuthi utshintsho lwemo yomhlaba, uphambuko, ukusebenzisa ngemvumelwano, ukwahlula-hlula, ukuhlanganisa, nokususa, nokumisa okwexeshana okanye lokwenza izilungiso kwimiqathango

enyinayo. Lo Mthetho uSayilwayo ulungiselela ubuncinane bemigangatho neemfuneko ekufuneka bezifezekisile oomasipala xa besamkela imithetho yabo neenkqubo zabo ngokuphathelele kwezi zixhobo.

3.4.3 Lo Mthetho uSayilwayo ubonelela ngobuncinane bemigangatho yolawulo lophuhliso. Le migangatho iphathelele kwimiba efana nobuncinane beenkcukacha ezifanele ukungeniswa ngabafaki bezicelo, ukupapashwa nokuhanjiswa kwezaziso zokulungiselela ukuthatha koluntu inxaxheba ekwenziweni kwezigqibo nokuqinisekisa ukuba amaqela achaphazelekayo ayaziswa, ubude bexesha abangenakudlula kubo oomasipala ekwenzeni kwabo izigqibo, uthethwano nezinye izigqeba zikarhulumente, iintlawulo zokufakwa kwezicelo zokusetyenziswa komhlaba, ulwaziso ngezigqibo zoomasipala nokumiswa okwexeshana kokwenziwa kwezigqibo xa kusalindwe izibheno.

3.4.4 Kananjalo lo Mthetho uSayilwayo ulungiselela namagunya oMphathiswa wePhondo ngokuphathelele kwinkxaso nokubekwa kweliso, izinto ke ezo ezimnika ilungelo (yena nesebe lakhe) lokuba avakalise izimvo zakhe ngezicelo zokusetyenziswa komhlaba nangezibheno phambi kokuba ziqwalaselwe ngoomasipala. Ezi zimvo ke ziya kuthi zibavule amehlo oomasipala kuzo naziphi na iingxaki eziphambili kwizicelo nakwizibheno ezifuna ukuba zikhatywe ezi zicelo okanye nakwezinye iingxaki ezifuna ukuqwalaselwa ngokuthi kubekwe imiqathango efanelekileyo yolwamkelo. Le mfuneko kulo Mthetho uSayilwayo yokuba urhulumente wephondo makanikwe ithuba lokuba avakalise izimvo zakhe, yinto efanelekileyo neqondakalayo ekusebenziseni kwakhe igunya lokuba aqinisekise ukuba oomasipala balisebenzisa ngempumelelo igunya labo njengeziphamandla ezilawulayo ngokuphathelele kucwangciso. Kananjalo iya kuthintela nokwenziwa kwezibheno nalapho kungekho mfuneko yoko nomthwalo weenkundla weembambano ezifuna uvandlakanyo.

3.5. ISAHLUKO V: ULAWULO LOPHUHLISO KWIPHONDO

3.5.1 ISahluko V sicacisa, silawule negunya likarhulumente wephondo lokwamkela uphuhliso lomhlaba oluya kuba nefuthe elikhulu kuphuhliso lommandla okanye lwePhondo olunocwangco, olunxibelelanisekileyo okanye olunoxolo okanye kwintlalontle yabahlali bommandla okanye bePhondo ngokubanzi ngenxa yohlobo okanye yobungakanani boko kusetyenziswa komhlaba kucetywayo okanye yefuthe lophuhliso oluninzi phambili phaya. Sicacisa neentlobo zophuhliso ezifuna ulwamkelo lweNtloko yeSebe (phezu kolu lukamasipala ulwamkelo). INtloko yeSebe iqwalasela kuphela ezo nkalo zichaphazela ucwangciso lwephondo kolo phuhliso. Ulwamkelo lwephondo luyafuneka xa ubukhulu bophuhliso olo bunokudlulela ngaphaya kwemida kamasipala okanye bunokuba nefuthe kuyo. UMphathiswa wePhondo usenokuzenzela ulwaphulelo ezinye iintlobo zophuhliso ekufuneni ulwamkelo lwephondo.

3.5.2 Ukuze kucuthwe ulibaziseko, lo Mthetho uYilwayo ulungiselela ukuba iinkqubo zokwenziwa kwezigqibo phantsi kwesi Sahluko ziddityaniswe neenkqubo zokwenziwa kwezigqibo zoomasipala ezikhankanywe kwiSahluko IV.

3.5.3 Kananjalo lo Mthetho uSayilwayo ubonelela nangelungelo lokubhenela kuMphathiswa wePhondo ngesigqibo seNtloko yeSebe. Ulwamkelo lwephondo luyaphelelwa ukuba ngaba uphuhliso lomhlaba olwamkelweyo alude luqaliswe kule minyaka ili-10 emva komhla olwaqalisa ngawo ukusebenza ulwamkelo lophuhliso.

3.6 ISAHLUKO VI: IINQOBO ZOCWANGCISO LOKUSETYENZISWA KOMHLABA

ISahluko VI silungisela ngeenqobo zocwangciso lokusetyenziswa komhlaba ezisebenza kwiPhondo eli lonke. Ezi nqobo zivakalisa inkxalabo karhulumente wephondo ngemiba efana nobulungisa nozinzo kwezomhlaba, ucikizeko, ulawulo oluhle nolomelelo lomhlaba. Izigqeba zikarhulumente zizithathela ingqalelo ezi nqobo zilawula ucwangciso, xa zisamkela izicwangciso naxa zisenza izigqibo ngokusetyenziswa komhlaba.

3.7 ISAHLUKO VII: ULWAPHULELO NOGUNYAZISO

3.7.1 ISahluko VII sigunyazisa uMphathiswa wePhondo ngokuba anike oomasipala ulwaphulelo ekuhambeni ngemiqathango ethile yalo Mthetho uSayilwayo ngeenjongo zokuphungulela oomasipala umthwalo kulawulo nakwezemali nokuba agunyazise oomasipala ukuba kwiimeko zongxamiseko babe nophambuko kubuncinane bemigangatho ebekiweyo kulo Mthetho uSayilwayo.

3.7.2 Kananjalo esi Sahluko sikwabeka nobuncinane bemigangatho abafanele kuyilandela oomasipala xa bebonelela ngolwaphulelo oluphathelele kulwahlulwa-hlulo nakuhlananganiso lwemihlaba.

3.8 ISAHLUKO VIII: IKOMITI YEENGCEBISO NGOCWANGCISO

3.8.1 ISahluko VIII sigunyazisa uMphathiswa wePhondo ukuba aseke iKomiti yeeNgcebiso ngoCwangciso yokuba inike iingcebiso ezinokuthi zifuneke ekusetyenzisweni kwalo Mthetho uSayilwayo.

3.8.2 Esi Sahluko sikwamisela nendlela yokuma kwale Komiti yeeNgcebiso ngoCwangciso ngokwamalungu ayo, neemfuneko zokufaneleka namava amalungu, ubude bexesha lobulungu nemiqathango yenkonzo, kwaye ukwachaza nangeentlanganiso zale komiti.

3.9 ISAHLUKO IX: IMIQATHANGO NGOKUBANZI

3.9.1 ISahluko IX sinemfuneko yokuba umasipala, uMphathiswa wePhondo kunye neNtloko yeSebe baqwalasele uvandlakanyo olubhaliweyo nesindululo somcwangcisi okuqeqeshelweyo okanye igcisa lomcwangcisi obhalisiweyo ngokwemiqathango yoMthetho oyi*Planning Profession Act*, 2002 (uMthetho 36 ka-2002), phambi kokuba benze isigqibo okanye bavakalise izimvo ngemiba ethile yocwangciso lomhlaba. Iintlobo zezicelo ezenziwayo nemiba echazwe kulo Mthetho uSayilwayo zikholise ukuphathelela kwimiba efuna uqwalaselo lweengcali. Urhulumente wephondo unakho ukuba, ngokusemthethweni najengenxenye yomsebenzi wakhe ayalele oomasipala ukuba mabaqwalasele izimvo zeengcali zocwangciso phambi kokuba benze izigqibo kule miba. Kule nkalo ke lo Mthetho uSayilwayo ulungiselela nokuba oomasipala abangenazo iinkonzo zomcwangcisi obhalisiweyo, bangacela iPhondo eli ukuba linyule umcwangcisi oyingcali ukuba enze ingxelo. Le ndawo ke ayiyinqandi imbono kamasipala okanye igosa locwangciso elinikwe igunya, yokuba benze isigqibo esahlukileyo kwisindululo somcwangcisi obhalisiweyo. Kananjalo ayinyanzelisi ngokuba loluphi na udidi lwabantu olunokuqulunqa izicelo zokusetyenziswa komhlaba.

3.9.2 Kananjalo esi Sahluko sikwamisela nokuba kufuneka kwenziwe iinzame zokuzidibanisa iinkqubo ezininzi ezisetyenziswa kuphuhliso ngalunye ngezivumelwano, ulwamkelo oludityanisiweyo nokudityanelwa kothethwano phakathi koluntu namanqanaba oburhulumente. Lo Mthetho uSayilwayo ukwalungiselela nokwenziwa kwezigqibo ngezicelo ngokweenkqubo ezimiselwe yeminye imithetho ukuba ngaba loo mithetho iyahambelana neemfuneko ezibekwa yimithetho yoomasipala echaphazelekayo nangulo Mthetho uSayilwayo.

3.9.3 ISahluko IX futhi sikwalungiselela namagunya ephondo okwenziwa kohlolo noqinisekiso ngothotyelo lweemfuneko eziphathelele kulwamkelo lophuhliso lomhlaba yiNtloko yeSebe. Lo Mthetho uSayilwayo ukwaphakamisa nomba wokubekwa kwezigqitho nezohlwayo kule nkalo.

3.9.4 Lo Mthetho uSayilwayo ulungiselela nonikezelo lwamagunya nokunikwa kwemisebenzi yiNkulumbuso yePhondo, nguMphathiswa wePhondo nayiNtloko yeSebe.

3.9.5 Esi Sahluko kananjalo sixhobisa uMphathiswa wePhondo ukuba enze imigaqo yokwenza lula ukusebenziseka kwalo Mthetho uSayilwayo usakuba uthe wamkelwa.

3.9.6 Esi Sahluko kananjalo sibonelela ngotshitshiso lwemithetho yocwangciso yolawulo lwamandulo, usindiso nezicwangciso zexeshana, futhi silungiselela nangomhla wokuqalisa kwalo Mthetho uSayilwayo ukusebenza.

4. IFUTHE KWEZEMALI

Umsebenzi wocwangciso lokusetyenziswa komhlaba uya kwenzelwa uhlahlo-mali kwiminyaka-mali ezayo.

5. UTHETHWANO

5.1 UMthetho osaYilwayo waye wakhutshwa kwiGazethi yePhondo ukuze uluntu luvakalise izimvo zalo ngawo.

5.2 La maqela alandelayo kwaye kwathethwana nawo:
aMasebe kaRhulumente wePhondo
uRhulumente woLawulo lweeDolophu neZithili
iMibutho kaRhulumente woLawulo lweeDolophu neZithili
amaqela achaphazelekayo kwezeSebe likaRhulumente weSizwe loCwangciso loPhuhliso lwaMaphandle noHlaziyo lweMithetho yoMhlaba (National Department of Rural Development and Land Reform)
Amaqela enza indima kumaqumrhu ezocwangciso

6. ILUNGELO LOKUWISA UMTHETHO

UMphathiswa wePhondo owongamele ucwangciso wanelisekile kukuba yonke imiqathango yalo Mthetho uSayilwayo isemandleni ePhondo eli.

Shumani Print World • www.shumaniprinters.com • (021) 951-6391

ISBN 978-1-920359-37-9