

PROVINCE OF THE WESTERN CAPE

WESTERN CAPE LAND USE PLANNING AMENDMENT BILL

(As introduced)

(MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING)

[B 3—2025]

PROVINSIE WES-KAAP

WES-KAAPSE WYSIGINGSWETSONTWERP OP GRONDGEBRUIKBEPLANNING

(Soos ingedien)

(MINISTER VAN PLAASLIKE REGERING, OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING)

[W 3—2025]

IPHONDO LENTSHONA KOLONI

UMTHETHO OSAYILWAYO WOLUNGISO WOCWANGCISO LOKUSETYENZISWA KOMHLABA WENTSHONA KOLONI

(Njengoko wazisiwe)

(uMPHATHISWA kaRHULUMENTE woMMANDLA, iMICIMBI yEZOKUSI ngQONGILEYO noCWANGCISO
loPHUHLISO)

[B 3—2025]

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GENERAL EXPLANATORY NOTE:

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

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

AMENDMENT BILL

To amend the Western Cape Land Use Planning Act, 2014, so as to insert and substitute certain definitions; to effect textual improvements relating to the adoption of an amended municipal spatial development framework; to remove certain references to a structure plan; to provide that a utilisation or a development of land that is not in conflict with, or that does not undermine, the relevant main goals and objectives of the applicable spatial development framework be regarded as consistent with that framework; to provide for municipalities to impose a validity period as a condition for the approval of a rezoning, subdivision, consolidation, consent use or departure; to make different provision regarding a subdivision application; to make different provision for the consideration of an application for the removal, suspension or amendment of a restrictive condition; to expand the conditions that a municipality may impose on a land use approval; to remove the requirement that an applicant in a land use application must submit the consent of a mortgage holder, if applicable; to delete certain provisions requiring publication and serving of a notice regarding an application that a municipality is considering in terms of the Act; to make different provision for instances when, and by when, the Head of Department must comment on a land use application; to reduce the period within which an organ of state must comment on a land use application; to make different provision for notifying a person of a decision on a land use application by a municipality; to make different provision for the notification process of a decision made by the Head of Department on a land development application; to make different provision for instances when the Provincial Minister grants or amends a condition relating to an emergency authorisation for an exemption from provisions of the Act; to make textual improvements to sections 61(2)(e) and 68(1)(c); to make different provision for integrated procedures and decisions; to provide for transitional provisions; and to provide for matters incidental thereto.

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

Amendment of section 1 of Act 3 of 2014

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

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

“**‘consolidation’**, in relation to land, means the merging of two or more adjacent land units into a single land unit, and includes the physical preparation of land for consolidation, but does not include the consolidation of land units directly arising from the establishment or

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- amendment of a development scheme as defined in section 1(1) of the Sectional Titles Act, 1986 (Act 95 of 1986);”;
- (b) by the insertion after the definition of “heritage resource” of the following definition:
- “**‘inclusionary housing’** means a spatially targeted mechanism that relies on the regulatory system of development planning permissions to oblige property developers to provide affordable housing, for sale or rent, within their development or at an alternative location determined by the municipality;”;
- (c) by the substitution for the definition of “restrictive condition” of the following definition:
- “**‘restrictive condition’** has the meaning assigned to it in the Spatial Planning and Land Use Management Act;”;
- (d) by the insertion after the definition of “spatial planning” of the following definition:
- “**‘Spatial Planning and Land Use Management Act’** means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);”;
- (e) by the substitution for the definition of “subdivision” of the following definition:
- “**‘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 or the division of a land unit into more land units directly arising from the establishment or amendment of a development scheme as defined in section 1(1) of the Sectional Titles Act, 1986 (Act 95 of 1986);”.

Amendment of section 10 of Act 3 of 2014

2. Section 10 of the principal Act is amended by the substitution for subsection (1) of the following subsection:
- “(1) A municipality must comply with section 11 when it adopts **[or amends]** its municipal spatial development framework or an amended municipal spatial development framework in terms of the Municipal Systems Act.”.

Amendment of section 11 of Act 3 of 2014

3. Section 11 of the principal Act is amended—
- (a) by the substitution for the heading of the following heading:
- “**Adoption [or amendment] of municipal spatial development frameworks or amended municipal spatial development frameworks**”; and
- (b) by the substitution for the words preceding paragraph (a) of the following words:
- “The **[process]** processes adopted by a municipality in terms of **[section]** sections 28 and 34 of the Municipal Systems Act relating to the adoption **[or amendment]** of its municipal spatial development framework or amended municipal spatial development framework must make provision for—”.

Amendment of section 13 of Act 3 of 2014

4. Section 13 of the principal Act is amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) must submit a draft municipal spatial development framework or draft **[amendment of a]** amended municipal spatial development framework to the Provincial Minister for written comment; and”;
- and

- (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) may not adopt its municipal spatial development framework or **[approve] an [amendment thereof] amended municipal spatial development framework** until—”.

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Amendment of section 14 of Act 3 of 2014

5. Section 14 of the principal Act is amended—

- (a) by the substitution for paragraph (a) of the following paragraph:

“(a) a written notice of the decision to adopt **[or amend]** a municipal spatial development framework or an amended municipal spatial development framework, together with the reasons for the decision;”;

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- (b) by the substitution for paragraph (b) of the following paragraph:

“(b) the adopted **[or amended]** municipal spatial development framework or amended municipal spatial development framework; and”.

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Amendment of section 19 of Act 3 of 2014

6. Section 19 of the principal Act is amended—

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

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

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- (b) by the substitution for subsection (1) of the following subsection:

“(1) If a spatial development framework **[or structure plan]** specifically provides for the utilisation or development of land as proposed in a land use application or land development application, the proposed utilisation or development is regarded as complying with that spatial development framework **[or structure plan]**.”;

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- (c) by the substitution for subsection (2) of the following subsection:

“(2) If a spatial development framework **[or structure plan]** does not specifically provide for the utilisation or development of land as proposed in a land use application or a land development application, but the proposed utilisation or development is not in conflict with **[the purpose of the relevant designation in]**, or does not undermine, the main goals and objectives of the spatial development framework [or structure plan], the utilisation or development is regarded as being consistent with that spatial development framework **[or structure plan]**.”;

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

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

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Amendment of section 35 of Act 3 of 2014

7. Section 35 of the principal Act is amended—

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

“(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).”;

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

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

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Amendment of section 36 of Act 3 of 2014

8. Section 36 of the principal Act is amended—

- (a) by the substitution for subsection (3) of the following subsection:
- “(3) A municipality must **[require at least the following]** in respect of an application for subdivision require the competent person to submit a subdivision plan showing the following: 5
- (a) **[if a change of zoning is involved that the application relates to land that is zoned, or will be zoned, for a purpose including subdivision]** the location of proposed land units, public places and land needed for public purposes; and 10
- (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.”;**
- (b) by the substitution for subsection (6) of the following subsection: 15
- “(6) When a municipality **[approves a rezoning for a purpose that includes subdivision, it must impose conditions making provision for at least—]** considers an application for subdivision that includes land that the applicant intends to subdivide further or subdivide in the future, the municipality may only approve the application if that land is zoned, or will be zoned, for a purpose including subdivision. 20
- [(a) density requirements;**
- (b) main land uses and the extent thereof; and**
- (c) a detailed phasing plan or a framework including—** 25
- (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.]”;** 30
- (c) by the insertion after subsection (6) of the following subsection:
- “(6A) When a municipality approves a rezoning contemplated in subsection (6), it must impose conditions making provision for at least the following: 35
- (a) density requirements;
- (b) main land uses and the extent thereof; and
- (c) a detailed phasing plan or a framework including— 40
- (i) main transport routes;
- (ii) main land uses;
- (iii) bulk infrastructure;
- (iv) requirements of organs of state;
- (v) public open space requirements; and
- (vi) physical development constraints.”;
- (d) by the substitution for paragraph (d) of subsection (8) of the following paragraph: 45
- “(d) registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan, or the applicant must submit to the municipality a certificate of registered title in terms of the Deeds Registries Act stating that the land unit shown on the diagram or at least one new land unit shown on the general plan is registered.”; and 50
- (e) by the substitution for subsection (9) of the following subsection:
- “(9) A municipality must, in accordance with minimum standards as may be prescribed— 55
- (a) consider imposing, as a condition of an approval of a subdivision, a validity period for the lapsing of the approval if an applicant fails to comply with the requirements referred to in subsection (8) within the validity period; and

- (b) make provision for the confirmation of the subdivision, including the confirmation of the zonings and the vesting of ownership of the public places in the municipality, upon or after compliance with the requirements referred to in subsection (8).”.

Amendment of section 38 of Act 3 of 2014

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

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

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Amendment of section 39 of Act 3 of 2014

10. Section 39 of the principal Act is amended—

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

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

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- (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 materially and adversely affected by the approval of the application.”;

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

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

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

Amendment of section 40 of Act 3 of 2014

11. Section 40 of the principal Act is amended—

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

“(i) requirements aimed at addressing climate change or coastal protection.”;

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- (b) by the substitution for the full stop in paragraph (q) of subsection (2) of a semi-colon; and

- (c) by the addition after paragraph (q) of subsection (2) of the following paragraphs:

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“(r) inclusionary housing;

(s) the restriction of use to mitigate or otherwise address the impact of a development.”.

Amendment of section 41 of Act 3 of 2014

12. Section 41 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

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- “(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] section 40 [and 44]**.”.

Substitution of section 42 of Act 3 of 2014

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

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

- (a) a copy of the relevant extract of the approved general plan or diagram; and
(b) a copy of the title deed.”.

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Repeal of sections 43 and 44 of Act 3 of 2014

14. Sections 43 and 44 of the principal Act are repealed.

Amendment of section 45 of Act 3 of 2014

15. Section 45 of the principal Act is amended—

- (a) by the deletion of paragraphs (a), (b) and (c) of subsection (1); and 5
- (b) by the substitution for subsection (2) of the following subsection:
“(2) The Head of Department must, within ~~[60]~~ 30 days of a request for comment contemplated in subsection (1), submit written provincial comments to the municipal manager.”.

Amendment of section 47 of Act 3 of 2014 10

16. Section 47 of the principal Act is amended—

- (a) by the substitution in subsection (1) for the expression “60” of the expression “30”; and
- (b) by the addition after subsection (2) of the following subsection:
“(3) The competent authority may, where appropriate, extend the period contemplated in subsection (1) for a reasonable time.” 15

Amendment of section 49 of Act 3 of 2014

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

Substitution of section 50 of Act 3 of 2014

18. The following section is substituted for section 50 of the principal Act: 20

“Notification of municipal decisions

50. A municipality must, after taking a decision contemplated in this Chapter, at least in writing—
- (a) notify the applicant and any person who submitted an objection to the application of the decision and reasons for the decision; and
 - (b) inform such persons of any right of appeal.” 25

Amendment of section 51 of Act 3 of 2014

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

- “(5) Nothing in this section prohibits a person from instituting proceedings for the judicial review of a decision as contemplated in section 6 of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).” 30

Amendment of section 54 of Act 3 of 2014

20. Section 54 of the principal Act is amended by the substitution for subsection (7) of the following subsection: 35

- “(7) The Head of Department, within 21 days of his or her decision on a land development application—
- (a) must publish the decision on the Department’s website for a period of at least 21 days and, in such publication, notify members of the public whose rights are materially and adversely affected by the decision of the decision and reasons for the decision and the right of appeal; 40
 - (b) may cause the public to be notified of the decision and reasons for the decision by publishing a notice in the *Provincial Gazette* or in other media that the Head of Department may consider appropriate; and
 - (c) must in writing notify the applicant and any person who submitted a comment of the decision and reasons for the decision, and inform such persons of any right of appeal, where applicable.” 45

Amendment of section 55 of Act 3 of 2014

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

Amendment of section 60 of Act 3 of 2014

22. Section 60(5) of the principal Act is amended— 5
- (a) by the substitution for the words preceding paragraph (a) of the following words: 10
- “(5) The Provincial Minister must as soon as it is reasonably possible after an authorisation has been granted under subsection (2), or a condition of such an authorisation has been amended or withdrawn under subsection (6)—”;
- (b) by the substitution for paragraph (a) of subsection (5) of the following paragraph: 15
- “(a) [**within 48 hours of an authorisation under subsection (2), or an amendment or withdrawal of a condition of such an authorisation under subsection (6),**] notify the Provincial Cabinet thereof and cause a notice thereof to be published in the *Provincial Gazette*; and”;
- (c) by the substitution for paragraph (b) of subsection (5) of the following paragraph: 20
- “[**within 14 days of the authorisation or the amendment or withdrawal of the condition,**] submit a report thereof to the Provincial Cabinet if the Provincial Minister deems it necessary under the circumstances.”.

Amendment of section 61 of Act 3 of 2014 25

23. Section 61 of the principal Act is amended—
- (a) by the substitution for the words preceding paragraph (a) of subsection (2) of the following words: 30
- “(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:”;
- (b) by the substitution for subparagraphs (i) and (ii) of paragraph (e) of subsection (2) of the following subparagraphs, respectively: 35
- “(i) in the case of a subdivision or a consolidation, does not lead to urban expansion; and
- (ii) in the case of a subdivision, requires approval in terms of legislation regulating the subdivision of agricultural land; or”.

Amendment of section 66 of Act 3 of 2014 40

24. Section 66 of the principal Act is amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: 45
- “(a) the adoption [**or amendment**] of a municipal spatial development framework or an amended municipal spatial development framework”;
- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph: 50
- “(a) deciding on the adoption [**or amendment**] of a provincial spatial development framework, an amended provincial spatial development framework or a provincial regional spatial development framework”;
- (c) by the substitution for paragraph (b) of subsection (4) of the following paragraph: 55
- “(b) providing comments contemplated in section 12(4) or 13(2) on the adoption [**or amendment**] of a municipal spatial development

framework or an amended municipal spatial development framework”.

Amendment of section 67 of Act 3 of 2014

25. Section 67 of the principal Act is amended—

- (a) by the substitution for subsection (5) of the following subsection: 5
 “(5) A municipality or the Head of Department may decide on an application that also requires approval in terms of other legislation on the basis of a process prescribed under that legislation, but only if **[that process meets the requirements of the applicable by-laws and this Act]** it is reasonable and justifiable to do so.”; 10
- (b) by the insertion after subsection (5) of the following subsection:
 “(5A) When determining whether deciding an application on the basis of a process prescribed under other legislation as contemplated in subsection (5) is reasonable and justifiable, the municipality or Head of Department must take into account all relevant factors, including— 15
 - (a) the objects of this Act;
 - (b) the nature and purpose of, and the need for, the approval of the application;
 - (c) the likely effect of the approval of the application;
 - (d) the urgency of approving the application or the urgency of the matter; and 20
 - (e) the need to promote an efficient administration and good governance.”; and
- (c) by the deletion of subsection (6).

Amendment of section 68 of Act 3 of 2014

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26. Section 68 of the principal Act is amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

- “(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).”.

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Amendment of arrangement of sections of Act 3 of 2014

27. The arrangement of sections before section 1 of the principal Act is amended—

- (a) by the substitution for the reference to section 11 of the following item:
 “11. Adoption **[or amendment]** of municipal spatial development frameworks or amended municipal spatial development frameworks”; 35
- (b) by the substitution for the reference to section 19 of the following item:
 “19. Compliance or consistency with, and deviation from, spatial development frameworks **[or structure plans]**”; and
- (c) by the deletion of the references to sections 43 and 44.

Transitional measures

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

Short title and commencement

29. This Act is called the Western Cape Land Use Planning Amendment Act, 2025, 45 and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

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

1. BACKGROUND

- 1.1. The Western Cape Land Use Planning Amendment Bill, 2025 (the Amendment Bill), proposes amendments to various provisions of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) (the Act). The proposed amendments are aimed at improving the legal framework that the Act prescribes for planning and development, and reducing red tape and over-regulation, in the light of practical experience gained during the implementation of the Act.
- 1.2. The Act was assented to on 31 March 2014. The commencement of the Act was staggered in respect of various municipalities during the period 2015 to 2016.
- 1.3. The Act commenced at a time when many municipalities in the Western Cape were still in the process of adopting by-laws on municipal land use planning. The Act ensured that during this transition phase of the law reform process municipalities gave effect to certain minimum requirements and adhered to certain minimum standards.
- 1.4. Since 2016, all municipalities in the Western Cape have adopted and implemented by-laws that, among other things, give effect to those minimum requirements and standards. The Act has been reviewed against this background by taking municipal experience into consideration. For this reason, the minimum requirements and standards are in some instances being reconsidered and reformulated, and in other instances they are relaxed to provide for more municipal discretion in land use planning processes.
- 1.5. Certain proposed amendments to the Act aim to reduce red tape and overregulation, to clarify further certain provisions and to effect textual improvements, and to align the Act with contemporary circumstances by, for example, removing certain references to structure plans in order to reflect the fact that all structure plans have now been phased out in all Western Cape municipalities.

2. OBJECTS OF AMENDMENT BILL

The objects of the Amendment Bill are to—

- 2.1. insert and substitute certain definitions;
- 2.2. introduce flexibility regarding various aspects of provincial regulation of municipal planning, including where an application for subdivision of land does not contemplate future or further subdivision;
- 2.3. eliminate unnecessary red tape and overregulation, also in relation to provincial involvement in land use applications;
- 2.4. align the Act with the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) (MSA), regarding the adoption of amended municipal spatial development frameworks;
- 2.5. remove superfluous requirements in the Act that regulate the removal of restrictive conditions;
- 2.6. expand the conditions that a municipality may impose on a land use approval;
- 2.7. provide greater discretion to municipalities regarding public consultation and other processes that a municipality may follow before taking decisions regarding land use applications;

- 2.8. reduce the administrative burden that arises when the Provincial Minister seeks to grant emergency exemptions and authorisations under the Act; and
- 2.9. make textual improvements.

3. CONTENTS OF AMENDMENT BILL

- 3.1. **Clause 1** provides for the amendment of the definitions set out in section 1 of the Act as follows:
 - 3.1.1. new definitions are inserted for “consolidation”, “inclusionary housing” and “Spatial Planning and Land Use Management Act”;
 - 3.1.2. the definition of “restrictive condition” is amended to align it with the definition in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), and to remove the ambiguity and uncertainty created by the exclusion in the definition of servitudes creating real or personal rights;
 - 3.1.3. the definition of “subdivision” is amended to expressly exclude the establishment or amendment of a development scheme as defined in section 1(1) of the Sectional Titles Act, 1986 (Act 95 of 1986), to make it expressly clear that subdivisions or consolidations arising from the establishment or amendment are not subject to the ordinary requirements set out in sections 36(1) and 38(1) of the Act.
- 3.2. **Clauses 2, 3, 4, 5 and 24** make technical amendments to sections 10, 11, 13, 14 and 66 of the Act respectively, to reflect the requirement in the MSA that obliges municipalities to adopt amended municipal spatial development frameworks.
- 3.3. **Clause 6** amends section 19 of the Act to remove all references in the section to structure plans. A further amendment is made that provides for a utilisation or development of land proposed in a land use application to be regarded as consistent with a spatial development framework if it is not in conflict with or does not undermine the main goals and objectives of the spatial development framework. This amendment enables municipalities to approve land use applications that are not in conflict with or do not undermine the spatial development framework’s main goals and objectives. In addition, a further amendment is made, which provides that a proposed utilisation or development of land deviates from a spatial development framework if it is not consistent with, or does not comply with, a spatial development framework.
- 3.4. **Clause 7** amends section 35 of the Act to provide that a municipality must consider imposing a validity period as a condition of approval when it approves a rezoning, departure or consent use. The reason for this is that the Act no longer contains an automatic lapsing clause, and a validity period would therefore need to be imposed as a separate condition of approval. A further amendment is made to remove references to sections 43 and 44 of the Act, as the Amendment Bill proposes that these sections be repealed.
- 3.5. **Clause 8** amends section 36 of the Act to provide that those applications where the applicant applies for subdivision but does not intend to subdivide the land further or does not intend to subdivide that land in the future will no longer need to show that the relevant portion of the land is zoned, or will be zoned, for a purpose including subdivision. This amendment will mean that it will no longer be a minimum requirement that all land that is the subject of a subdivision application must, where a change in zoning for some of the land is required, be rezoned as having a purpose including subdivision. A further proposed amendment provides that, where the applicant does intend to subdivide the land further or to subdivide that land in the future, the municipality must make its rezoning approval conditional on density requirements, main land uses and the extent thereof, and on the provision of

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

- 3.6. **Clause 9** makes a technical amendment to section 38 of the Act to clarify the requirement that a municipality must consider imposing a validity period as a condition of approval when it approves a consolidation.
- 3.7. **Clause 10** amends section 39 of the Act to provide that only those persons whose rights or legitimate expectations will be materially and adversely affected by the approval of the application must be notified of an application for the removal, suspension or amendment of a restrictive condition in a title deed. This amendment will relieve the administrative burden associated with processing the application by aligning the requirements with those contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) (PAJA). The requirement to notify other interested and affected parties by way of publications in the press will remain. Distant owners can still comment and participate in the process: the only difference being that they will not be personally served with a notice unless required by PAJA in the specific circumstances of the application. Clause 10 also amends section 39 to remove the obligation on the municipality to consider the factors set out in section 49(a) to (e) of the Act when considering an application for the removal, suspension or amendment of a restrictive condition in a title deed. The municipality is already required, in terms of the provisions of PAJA, to consider these factors when they are relevant to a particular decision in terms of section 39 of the Act, and the Act already provides for similar mandatory considerations elsewhere in the Act. The removal of the obligation to consider the factors in section 49(a) to (e) will therefore result in the removal of red tape and overregulation. The clause also removes the superfluous compulsory minimum requirements in section 39. The rationale for the amendment is that sections 42(1)(c) and 47(2)(b) of SPLUMA, as well as the principles provided in section 7, provide sufficient considerations and legal guidance to a municipality when considering an application for the removal, suspension or amendment of a restrictive condition. Furthermore, an application for the removal, suspension or amendment of a restrictive condition constitutes a land use application and, therefore, falls within the ambit of the relevant considerations as prescribed in section 49(a) to (e) of the Act, and the specific reference to it in section 39 is consequently superfluous. Finally, a further amendment is made to remove the reference to section 43 of the Act, as the Amendment Bill proposes that the section be repealed.
- 3.8. **Clause 11** amends section 40 of the Act to provide expressly for the provision of inclusionary housing: a requirement aimed at addressing climate change or coastal protection or a restriction on use to mitigate or otherwise address the impact of a development, as potential conditions of approval of a land use application.
- 3.9. **Clause 12** amends section 41(1) of the Act to remove the reference to section 44 of the Act, as the Amendment Bill proposes that the section be repealed.
- 3.10. **Clause 13** removes the requirement in section 42 of the Act that an applicant must submit the consent of the mortgage holder (if any) as part of a land use application.

- 3.11. **Clause 14** repeals sections 43 and 44 of the Act. The experience gained from implementing these sections of the Act has been that they may be repealed as municipalities in the Western Cape are now in a position to make responsible use of the greater flexibility provided by PAJA and its underlying regulations when conducting the public participation processes referred to in sections 43 and 44. The repealing of these sections will lessen the administrative burden of those processes and eliminate red tape.
- 3.12. **Clause 15** amends section 45 of the Act to reduce the number of mandatory instances where a municipality must request provincial comments on a land use application. The following requirements are removed:
 - 3.12.1. the requirement to obtain provincial comment on a development outside the municipality's planned outer limit of urban expansion;
 - 3.12.2. the requirement to obtain provincial comment on a development outside the physical edge of the existing urban area if the municipality has not approved a municipal spatial development framework;
 - 3.12.3. the requirement to obtain provincial comment on a rezoning of land zoned for agricultural or conservation purpose.

Additionally, clause 15 amends section 45 of the Act by reducing the period in which the Head of Department must submit written provincial comments to the municipal manager on a land use application from 60 days to 30 days of a request for comment.
- 3.13. **Clause 16** amends section 47 of the Act to reduce the period in which an organ of state must comment on a land use application from 60 days to 30 days of a request for comment. A further amendment is made to empower the competent authority to extend, where appropriate, that period for a reasonable time.
- 3.14. **Clause 17** amends section 49 of the Act by removing the requirement in section 49(b) that a municipality consider the applicable structure plans when deciding on a land use application.
- 3.15. **Clause 18** amends section 50 of the Act by restricting the requirement that a municipality notify persons other than the applicant of a decision contemplated in Chapter IV of the Act to those who submitted an objection to the application. A further proposed amendment provides for the requirement that the notice provides reasons for the decision and notifies the receiving person of the right to appeal the decision, if such a right exists. This will reduce the administrative burden on municipalities, and will also shorten the appeal procedure, as there would be no need separately to request reasons for a decision.
- 3.16. **Clause 19** adds a new subsection to section 51 of the Act to provide that nothing in section 51 prohibits a person from instituting proceedings for judicial review as contemplated in section 6 of PAJA.
- 3.17. **Clause 20** amends section 54 of the Act by removing the requirement that the decision on a land development application be published in newspapers and the *Provincial Gazette* and replacing this with the requirement that the decision be published on the Department's website for a period of 21 days, in which notice the Department must notify members of the public whose rights are materially and adversely affected by the decision of the decision and reasons for the decision and right of appeal. A further proposed amendment provides the Head of Department with the discretion whether to publicise the decision and the abovementioned information in other media, and also prescribes that the applicant and any person who lodged a comment

to the application must be informed of the reasons for the decision, as well as their right to appeal, where applicable.

- 3.18. **Clause 21** amends section 55 of the Act by removing the requirement in section 55(c)(ii) that the Head of Department must consider the applicable structure plans when considering and deciding on a land development application.
- 3.19. **Clause 22** amends section 60(5) to provide for the Provincial Minister to notify the Provincial Cabinet of a decision, in an emergency situation, to authorise a municipality to deviate from the provisions of the Act or a condition of the authorisation, as soon as reasonably possible (as opposed to within 48 hours) after the decision to grant the deviation. A further amendment replaces the obligation to submit a report regarding the decision to the Provincial Cabinet within 14 days, with the obligation to submit a report if the Provincial Minister deems it necessary under the circumstances, as soon as reasonably possible. These amendments are required as the implementation of these clauses in the Act have shown that, in urgent circumstances, the requirements are unnecessarily onerous and impractical, whereas Provincial Cabinet will be able to exercise sufficient oversight if the requirements are lowered to the standard contemplated in the amendments.
- 3.20. **Clause 23** makes a technical amendment to section 61 of the Act to clarify that the legislation referred to that regulates the subdivision of land relates only to applications for subdivision of agricultural land and not consolidation of the land. A further amendment is made to remove the references to section 43 of the Act, as the Amendment Bill proposes that the section be repealed.
- 3.21. **Clause 25** amends section 67 of the Act in order to remove the requirement that a municipality or a Head of Department may only use a process prescribed under other legislation to decide an application under the Act if that other process strictly complies with the requirements of the Act. Instead, the requirement is introduced that the process in the other legislation may be used only if it is reasonable and justifiable to do so, after considering among other things the objects of the Act. This amendment will ease the regulatory burden of processing applications and encourages the integration of processes under multiple laws.
- 3.22. **Clause 26** makes a technical amendment to section 68(1)(c) of the Act by removing the phrase “terms or” from the section.
- 3.23. **Clause 27** amends the Act by amending the arrangement of sections in order to align it to the amendments to the Act.
- 3.24. **Clause 28** provides for a transitionary period whereby a land use application or land development application made before the Amendment Bill is enacted and commenced, which has not been finalised before that commencement, must be finalised as if the Amendment Bill has not been enacted and commenced.
- 3.25. **Clause 29** provides for the short title and commencement of the Amendment Act.

4. CONSULTATION

Department of the Premier: Legal Services

The Draft Western Cape Land Use Planning Amendment Bill of 2023 was published for public comment under Provincial Notice 110/2023 in *Provincial Gazette* 8848 dated 9 November 2023.

5. PERSONNEL IMPLICATIONS

None

6. FINANCIAL IMPLICATIONS

None

7. LEGISLATIVE COMPETENCE

The Provincial Minister responsible for local government, environmental affairs and development planning is satisfied that the provisions of the Amendment Bill fall within the legislative competence of the Province.

5

- (a) deur die woordskrywing van “beperkende voorwaarde” deur die volgende woordskrywing te vervang:
 “**‘beperkende voorwaarde’** dieselfde as die betekenis wat daaraan toegeken is in die Wet op Ruimtelike Beplanning en Grondgebruikbestuur;”;
- (b) deur die volgende woordskrywing ná die woordskrywing van “ingenieursdiens” in te voeg:
 “**‘inklusiewe behuising’** ’n ruimtelik geteikende meganisme wat berus by die regulatoriese stelsel van ontwikkelingsbeplanningstoestemmings ten einde eiendomsontwikkelaars te verplig om bekostigbare behuising te verskaf, te koop of te huur, binne hul ontwikkeling of by ’n ander ligging deur die munisipaliteit bepaal;”;
- (c) deur die volgende woordskrywing ná die woordskrywing van “Komitee” in te voeg:
 “**‘konsolidering’**, met betrekking tot grond, die samesmelting van twee of meer aangrensende grondeenhede in ’n enkele grondeenheid, en beteken ook die fisiese voorbereiding van grond vir konsolidering, maar beteken nie ook die konsolidering van grondeenhede wat direk uit die daarstelling of wysiging van ’n ontwikkelingskema voortspruit soos omskryf in artikel 1(1) van die Wet op Deeltitels, 1986 (Wet 95 van 1986), nie;”;
- (d) deur die woordskrywing van “onderverdeling” deur die volgende woordskrywing te vervang:
 “**‘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 of die verdeling van ’n grondeenheid in meer grondeenhede wat direk uit die daarstelling of wysiging van ’n ontwikkelingskema voortspruit soos omskryf in artikel 1(1) van die Wet op Deeltitels, 1986 (Wet 95 van 1986), nie;”;
- (e) deur die volgende woordskrywing ná die woordskrywing van “Wet op Minder Formele Dorpsstigting” in te voeg:
 “**‘Wet op Ruimtelike Beplanning en Grondgebruikbestuur’** die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 16 van 2013);”.

Wysiging van artikel 10 van Wet 3 van 2014

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

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

Wysiging van artikel 11 van Wet 3 van 2014

3. Artikel 11 van die Hoofwet word gewysig—

- (a) deur die opskrif deur die volgende opskrif te vervang:
 “**Aanneming [of wysiging] van munisipale ruimtelike ontwikkelingsraamwerke of gewysigde munisipale ruimtelike ontwikkelingsraamwerke**”; en
- (b) deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “Die [proses] prosesse wat ’n munisipaliteit ingevolge [artikel] artikels 28 en 34 van die Munisipale Stelselswet aanneem in verband met die aanneming [of wysiging] van sy munisipale ruimtelike ontwikkelingsraamwerk of gewysigde munisipale ruimtelike ontwikkelingsraamwerk moet voorsiening maak vir—”.

Wysiging van artikel 13 van Wet 3 van 2014

4. Artikel 13 van die Hoofwet word gewysig—
- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang: 5
 “(a) moet die munisipaliteit ’n konsep- munisipale ruimtelike ontwikkelingsraamwerk of [**’n konsepwysiging van ’n**] konsepgewysigde munisipale ruimtelike ontwikkelingsraamwerk vir skriftelike kommentaar by die Provinsiale Minister indien; en”; en
- (b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang: 10
 “(b) mag die munisipaliteit nie sy munisipale ruimtelike ontwikkelingsraamwerk [**aanneem of ’n wysiging daarvan goedkeur**] of ’n gewysigde munisipale ruimtelike ontwikkelingsraamwerk aanneem totdat—”.

Wysiging van artikel 14 van Wet 3 van 2014

5. Artikel 14 van die Hoofwet word gewysig—
- (a) deur paragraaf (a) deur die volgende paragraaf te vervang: 15
 “(a) ’n skriftelike kennisgewing van die besluit om ’n munisipale ruimtelike ontwikkelingsraamwerk of ’n gewysigde munisipale ruimtelike ontwikkelingsraamwerk aan te neem [**of te wysig**], tesame met die redes vir die besluit;”; en
- (b) deur paragraaf (b) deur die volgende paragraaf te vervang: 20
 “(b) die aangenome [**of gewysigde**] munisipale ruimtelike ontwikkelingsraamwerk of gewysigde munisipale ruimtelike ontwikkelingsraamwerk; en”.

Wysiging van artikel 19 van Wet 3 van 2014

6. Artikel 19 van die Hoofwet word gewysig— 25
- (a) deur die opskrif deur die volgende opskrif te vervang:
“Voldoening aan, of bestaanbaarheid met, en verskil van, ruimtelike ontwikkelingsraamwerke [of struktuurplanne]”;
- (b) deur subartikel (1) deur die volgende subartikel te vervang: 30
 “(1) Indien ’n ruimtelike ontwikkelingsraamwerk [**of struktuurplan**] spesifiek voorsiening maak vir die aanwending of ontwikkeling van grond soos voorgestel in ’n grondgebruikaansoek of ’n grondontwikkelingsaansoek, word die voorgestelde aanwending of ontwikkeling geag te voldoen aan daardie ruimtelike ontwikkelingsraamwerk [**of struktuurplan**].”; 35
- (c) deur subartikel (2) deur die volgende subartikel te vervang:
 “(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**] hoofdoelwitte en oogmerke van die ruimtelike ontwikkelingsraamwerk [of struktuurplan], of dit nie ondermyn nie, word die voorgestelde aanwending of ontwikkeling geag bestaanbaar te wees met daardie ruimtelike ontwikkelingsraamwerk [**of struktuurplan**].”; en 40 45
- (d) deur subartikel (3) deur die volgende subartikel te vervang:
 “(3) Indien die voorgestelde aanwending of ontwikkeling van grond in ’n grondgebruikaansoek of grondontwikkelingsaansoek nie voldoen aan die [**tersaaklike aanwysing vir die aanwending van grond in ’n toepaslike**] ruimtelike ontwikkelingsraamwerk [**of struktuurplan**] en nie daarmee bestaanbaar is nie, verskil die voorgestelde aanwending of ontwikkeling van daardie ruimtelike ontwikkelingsraamwerk [**of struktuurplan**].”. 50

Wysiging van artikel 35 van Wet 3 van 2014

7. Artikel 35 van die Hoofwet word gewysig— 55

- (a) deur subartikel (2) deur die volgende subartikel te vervang:
- “(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.”; en 5
- (b) deur subartikel (3) deur die volgende subartikel te vervang:
- “(3) Wanneer ’n munisipaliteit ’n grondgebruikaansoek vir ’n hersonering, afwyking of vergunningsgebruik goedkeur, moet die munisipaliteit dit oorweeg om ’n geldigheidstydperk vir die goedkeuring as ’n voorwaarde vir die goedkeuring op te lê.” 10

Wysiging van artikel 36 van Wet 3 van 2014

8. Artikel 36 van die Hoofwet word gewysig—

- (a) deur subartikel (3) deur die volgende subartikel te vervang:
- “(3) ’n Munisipaliteit moet **[minstens die volgende vereis]** ten opsigte van ’n aansoek om onderverdeling van die bevoegde persoon vereis om ’n onderverdelingsplan in te dien waarop die volgende aangetoon word: 15
- (a) **[indien ’n verandering in sonering betrokke is dat die aansoek verband hou met grond wat gesoneer is, of gesoneer sal word, vir ’n doel wat onderverdeling insluit]** die ligging van voorgestelde grondeenhede, openbare plekke en grond wat vir openbare doeleindes benodig word; en 20
- (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** 25
- (ii) **die voorgestelde sonerings ten opsigte van die voorgestelde grondeenhede.**”;
- (b) deur subartikel (6) deur die volgende subartikel te vervang: 30
- “(6) Wanneer ’n munisipaliteit **[’n hersonering vir ’n doel wat onderverdeling insluit goedkeur, moet hy voorwaardes oplê wat vir minstens die volgende voorsiening maak:]** ’n aansoek om onderverdeling oorweeg wat grond insluit wat die aansoeker beoog om verder te onderverdeel of in die toekoms te onderverdeel, mag die munisipaliteit slegs die aansoek goedkeur indien daardie grond gesoneer is, of gesoneer gaan word, vir ’n doel wat onderverdeling insluit. 35
- [(a) digtheidsvereistes;**
- (b) hoof- grondgebruike en die omvang daarvan; en**
- (c) ’n uitvoerige faseringsplan of ’n raamwerk wat die volgende insluit:** 40
- (i) **hoof- vervoerroetes;**
- (ii) **hoof- grondgebruike;**
- (iii) **grootmaatinfrastruktuur;**
- (iv) **vereistes van staatsorgane;** 45
- (v) **vereistes ten opsigte van openbare oop ruimtes; en**
- (vi) **fisiese ontwikkelingsbeperkings.]”;**
- (c) deur die volgende subartikel ná subartikel (6) in te voeg:
- “(6A) Wanneer ’n munisipaliteit ’n hersonering beoog in subartikel (6) goedkeur, moet hy voorwaardes oplê wat vir minstens die volgende voorsiening maak: 50
- (a) digtheidsvereistes;
- (b) hoofgrondgebruike en die omvang daarvan; en
- (c) ’n uitvoerige faseringsplan of ’n raamwerk insluitende— 55
- (i) hoofvervoerroetes;
- (ii) hoofgrondgebruike;
- (iii) grootmaatinfrastruktuur;
- (iv) vereistes van staatsorgane;
- (v) vereistes ten opsigte van openbare oop ruimtes; en
- (vi) fisiese ontwikkelingsbeperkings.” 60

- (d) deur paragraaf (d) van subartikel (8) deur die volgende paragraaf te vervang:
 “(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, of die aansoeker moet ’n sertifikaat van geregistreerde titel ingevolge die Registrasie van Aktes Wet by die munisipaliteit indien wat verklaar dat die grondeenheid wat op die diagram aangetoon word of minstens een nuwe grondeenheid wat op die algemene plan aangetoon word, geregistreer is.”; en 5
- (e) deur subartikel (9) deur die volgende subartikel te vervang: 10
 “(9) ’n Munisipaliteit moet, ooreenkomstig die minimum standaarde soos voorgeskryf kan word—
 (a) oorweeg om, as ’n voorwaarde van ’n goedkeuring van ’n onderverdeling, ’n geldigheidstydperk vir die verval van die goedkeuring op te lê indien ’n aansoeker versuim om binne die geldigheidstydperk aan die vereistes bedoel in subartikel (8) te voldoen; en 15
 (b) voorsiening maak vir die bevestiging van die onderverdeling, met inbegrip van die bevestiging van die sonerings en die vestiging van eienaarskap van die openbare plekke in die munisipaliteit, by of ná voldoening aan die vereistes bedoel in subartikel (8).”. 20

Wysiging van artikel 38 van Wet 3 van 2014

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

- “(3) Wanneer ’n munisipaliteit ’n konsolidering van grondeenhede goedkeur, moet die munisipaliteit die oplegging van ’n geldigheidstydperk vir die goedkeuring as ’n voorwaarde van die goedkeuring oorweeg.”. 25

Wysiging van artikel 39 van Wet 3 van 2014

10. Artikel 39 van die Hoofwet word gewysig—

- (a) deur subartikel (2) deur die volgende subartikel te vervang: 30
 “(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 wesenlik en nadelig geraak sal word deur die goedkeuring van die aansoek.”; 35
 (b) deur subartikel (3) deur die volgende subartikel te vervang:
 “(3) Wanneer ’n munisipaliteit ’n beperkende voorwaarde uit eie beweging ophef, opskort of wysig, moet die munisipaliteit aan subartikel (2) **[en artikel 43]** voldoen **[en minstens die aangeleenthede bedoel in artikel 49(a) tot (e) in ag neem]**.”; en 40
 (c) deur die skraping van subartikel (5). 45

Wysiging van artikel 40 van Wet 3 van 2014

11. Artikel 40 van die Hoofwet word gewysig—

- (a) deur die vervanging van paragraaf (i) van subartikel (2) deur die volgende: 45
 “(i) vereistes om aandag te gee aan klimaatsverandering of kusbeskerming.”;
 (b) deur die punt ná paragraaf (q) van subartikel (2) deur ’n kommapunt te vervang; en
 (c) deur die byvoeging van die volgende paragrawe ná paragraaf (q) van subartikel (2): 50
 “(r) inklusiewe behuising;
 (s) die beperking op gebruik om die impak van ’n ontwikkeling te versag of andersins daaraan aandag te gee.”.

Wysiging van artikel 41 van Wet 3 van 2014

12. Artikel 41 van die Hoofwet word gewysig deur die vervanging van subartikel (1) deur die volgende subartikel:

“(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] artikel 40 [en 44]** voldoen.”.

Vervanging van artikel 42 van Wet 3 van 2014

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

“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; en
- (b) ’n afskrif van die titelakte.”.

Herroeping van artikels 43 en 44 van Wet 3 van 2014

14. Artikels 43 en 44 van die Hoofwet word herroep.

Wysiging van artikel 45 van Wet 3 van 2014

15. Artikel 45 van die Hoofwet word gewysig—

- (a) deur die skraping van paragrawe (a), (b) en (c) van subartikel (1); en
 - (b) deur die vervanging van subartikel (2) deur die volgende subartikel:
- “(2) Die Departementshoof moet, binne **[60] 30** dae van ’n versoek om kommentaar beoog in subartikel (1), skriftelike provinsiale kommentaar aan die munisipale bestuurder lewer.”.

Wysiging van artikel 47 van Wet 3 van 2014

16. Artikel 47 van die Hoofwet word gewysig—

- (a) deur in subartikel (1) die uitdrukking “60” deur die uitdrukking “30” te vervang; en
 - (b) deur die byvoeging ná subartikel (2) van die volgende subartikel:
- “(3) Die bevoegde gesag kan, waar van toepassing, die tydperk beoog in subartikel (1) vir ’n redelike tyd verleng.”.

Wysiging van artikel 49 van Wet 3 van 2014

17. Artikel 49 van die Hoofwet word gewysig deur die skraping van paragraaf (b).

Vervanging van artikel 50 van Wet 3 van 2014

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

“Kennisgewing van munisipale besluite

50. ’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 redes vir die besluit; en
- (b) sodanige persone skriftelik oor enige reg tot appèl inlig.”.

Wysiging van artikel 51 van Wet 3 van 2014

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

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

Wysiging van artikel 54 van Wet 3 van 2014

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

- “(7) Die Departementshoof, binne 21 dae van sy of haar besluit oor ’n grondontwikkelingsaansoek—
- (a) moet die besluit vir ’n tydperk van minstens 21 dae op die Departement se webtuiste publiseer en, in sodanige publikasie, lede van die publiek wie se regte weselik en nadelig deur die besluit geraak word, in kennis stel van die besluit en redes vir die besluit en die reg tot appèl; 10
 - (b) kan toelaat dat die publiek in kennis gestel word van die besluit en redes vir die besluit deur ’n kennisgewing te publiseer in die *Provinsiale Koerant* of in ander media wat die Departementshoof as geskik mag ag; en 15
 - (c) moet die aansoeker en enige persoon wat ’n kommentaar gelewer het, skriftelik in kennis stel van die besluit en redes vir die besluit, en sodanige persone oor enige reg tot appèl, waar van toepassing, inlig.”.

Wysiging van artikel 55 van Wet 3 van 2014

21. Artikel 55 van die Hoofwet word gewysig deur die skraping van subparagraaf (ii) van paragraaf (c). 20

Wysiging van artikel 60 van Wet 3 van 2014

22. Artikel 60(5) van die Hoofwet word gewysig—

- (a) deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 25

“(5) Die Provinsiale Minister moet so gou as wat dit redelikerwys moontlik is nadat ’n magtiging kragtens subartikel (2) verleen is, of ’n voorwaarde van so ’n magtiging kragtens subartikel (6) gewysig of ingetrek is—”;
- (b) deur paragraaf (a) van subartikel (5) te vervang deur die volgende paragraaf: 30

“(a) [binne 48 uur van ’n magtiging kragtens subartikel (2), of ’n wysiging of ’n intrekking van ’n voorwaarde van so ’n magtiging kragtens subartikel (6),] die Provinsiale Kabinet daarvan in kennis stel en ’n kennisgewing daarvan in die *Provinsiale Koerant* laat publiseer; en”;
- (c) deur paragraaf (b) van subartikel (5) te vervang deur die volgende paragraaf: 35

“[binne 14 dae van die magtiging of die wysiging of intrekking van die voorwaarde,] ’n verslag daarvan by die Provinsiale Kabinet indien, indien die Provinsiale Minister dit onder die omstandighede nodig ag.”.

Wysiging van artikel 61 van Wet 3 van 2014

23. Artikel 61 van die Hoofwet word gewysig—

- (a) deur die woorde wat paragraaf (a) van subartikel (2) voorafgaan deur die volgende woorde te vervang: 40

“(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:”;
- (b) deur die vervanging van subparagrafe (i) en (ii) van paragraaf (e) van subartikel (2) deur onderskeidelik die volgende subparagrafe: 50
 - “(i) in die geval van ’n onderverdeling of ’n konsolidering, nie tot stedelike uitbreiding aanleiding gee nie; en
 - (ii) in die geval van ’n onderverdeling, goedkeuring vereis ingevolge wetgewing wat die onderverdeling van landbougrond reguleer; of”.

Wysiging van artikel 66 van Wet 3 van 2014

24. Artikel 66 van die Hoofwet word gewysig—

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

Wysiging van artikel 67 van Wet 3 van 2014

25. Artikel 67 van die Hoofwet word gewysig—

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

Wysiging van artikel 68 van Wet 3 van 2014

26. Artikel 68 van die Hoofwet word gewysig deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:

- “(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.”.

Wysiging van indeling van artikels van Wet 3 van 2014

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

- (a) deur die vervanging van die verwysing na artikel 11 deur die volgende item:
“11. Aanneming **[of wysiging]** van munisipale ruimtelike ontwikkelingsraamwerke of gewysigde munisipale ruimtelike ontwikkelingsraamwerke”;
- (b) deur die vervanging van die verwysing na artikel 19 deur die volgende item:
“19. Voldoening aan, of bestaanbaarheid met, en verskil van, ruimtelike ontwikkelingsraamwerke **[of struktuurplanne]**”; en
- (c) deur die skraping van die verwysings na artikels 43 en 44.

Oorgangsmatreëls

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

Kort titel en inwerkingtreding

5

29. Hierdie Wet heet die Wes-Kaapse Wysigingswet op Grondgebruikbeplanning, 2025, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WYSIGINGSWETSONTWERP OP GRONDGEBRUIKBEPLANNING

1. AGTERGROND

- 1.1. Die Wes-Kaapse Wysigingswetsontwerp op Grondgebruikbeplanning, 2025 (die Wysigingswetsontwerp), stel wysigings aan verskeie bepalings van die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (Wet 3 van 2014) (die Wet), voor. Die voorgestelde wysigings beoog om die regsraamwerk te verbeter wat die Wet vir beplanning en ontwikkeling voorskryf, en om rompslomp en oorregulering te verminder, in die lig van praktiese ervaring wat tydens die implementering van die Wet opgedoen is.
- 1.2. Die Wet is op 31 Maart 2014 bekragtig. Die inwerkingtreding van die Wet het gedurende die tydperk 2015 tot 2016 trapsgewys plaasgevind ten opsigte van verskillende munisipaliteite.
- 1.3. Die Wet het in werking getree op 'n tydstip toe verskeie munisipaliteite in die Wes-Kaap nog besig was om verordeninge oor munisipale grondgebruikbeplanning aan te neem. Die Wet het verseker dat munisipaliteite tydens hierdie oorgangsfase van die wetshervormingsproses uitvoering gegee het aan sekere minimum vereistes en aan sekere minimum standaarde voldoen het.
- 1.4. Sedert 2016 het alle munisipaliteite in die Wes-Kaap verordeninge aangeneem en geïmplementeer wat onder meer uitvoering gee aan daardie minimum vereistes en standaarde. Die Wet is teen hierdie agtergrond hersien met inagneming van die ervaring van munisipaliteite. Om hierdie rede word die minimum vereistes en standaarde in sommige gevalle heroorweeg en herformuleer, en in ander gevalle word dit verslap om voorsiening te maak vir groter munisipale diskresie oor grondgebruikbeplanningsprosesse.
- 1.5. Sekere voorgestelde wysigings aan die Wet beoog om rompslomp en oorregulering te verminder, om sekere bepalings verder duideliker te maak en om tekstuele verbeteringe aan te bring, en om die Wet in ooreenstemming te bring met hedendaagse omstandighede deur byvoorbeeld sekere verwysings na struktuurplanne te skrap ten einde die feit te weerspieël dat alle struktuurplanne nou by al die Wes-Kaapse munisipaliteite uitgefaseer is.

2. OOGMERKE VAN WYSIGINGSWETSONTWERP

Die oogmerke van die Wysigingswetsontwerp is om—

- 2.1. sekere woordskrywings in te voeg en te vervang;
- 2.2. buigsaamheid in te bring met betrekking tot verskeie aspekte van provinsiale regulering van munisipale beplanning, met inbegrip van waar 'n aansoek om onderverdeling van grond nie toekomstige of verdere onderverdeling beoog nie;
- 2.3. onnodige rompslomp en oorregulering uit te skakel, ook met betrekking tot provinsiale betrokkenheid by grondgebruikaansoeke;
- 2.4. die Wet in ooreenstemming te bring met die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000) (MSA), met betrekking tot die aanneming van gewysigde munisipale ruimtelike ontwikkelingsraamwerke;
- 2.5. oorbodige vereistes in die Wet te skrap wat die opheffing van beperkende voorwaardes reguleer;
- 2.6. die voorwaardes uit te brei wat 'n munisipaliteit op grondgebruikgoedkeuring mag opleë;

- 2.7. groter diskresie aan munisipaliteite toe te sê oor openbare oorlegpleging en ander prosesse wat 'n munisipaliteit mag volg voordat besluite oor grondgebruikaansoeke geneem word;
- 2.8. die administratiewe las te verminder wat ontstaan wanneer die Provinsiale Minister beoog om noodvrystellings en magtigings kragtens die Wet te verleen; en
- 2.9. tekstuele verbeteringe aan te bring.

3. INHOUD VAN WYSIGINGSWETSONTWERP

- 3.1. **Klousule 1** maak soos volg voorsiening vir die wysiging van die woordomsrywings in artikel 1 van die Wet:
 - 3.1.1. nuwe woordomsrywings word ingevoeg vir “inklusiewe behuising”, “konsolidering” en “Wet op Ruimtelike Beplanning en Grondgebruikbestuur”;
 - 3.1.2. die woordomskrywing van “beperkende voorwaarde” word gewysig om dit in ooreenstemming te bring met die woordomskrywing in die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 16 van 2013) (SPLUMA), en om die dubbelsinnigheid en onsekerheid te verwyder wat geskep word deur die uitsluiting van serwitute in die woordomskrywing wat werklike of persoonlike regte skep;
 - 3.1.3. die woordomskrywing van “onderverdeling” word gewysig om die daarstelling of wysiging van 'n ontwikkelingskema soos omskryf in artikel 1(1) van die Wet op Deeltitels, 1986 (Wet 95 van 1986), uitdruklik uit te sluit om dit uitdruklik duidelik te maak dat onderverdelings of konsoliderings wat voortspruit uit die daarstelling of wysiging nie behoudens die gewone vereistes uiteengesit in artikels 36(1) en 38(1) van die Wet is nie.
- 3.2. **Klousules 2, 3, 4, 5 en 24** maak tegniese wysigings aan onderskeidelik artikels 10, 11, 13, 14 en 66 van die Wet om die vereiste in die MSA te weerspieël wat munisipaliteite verplig om gewysigde munisipale ruimtelike ontwikkelingsraamwerke aan te neem.
- 3.3. **Klousule 6** wysig artikel 19 van die Wet deur alle verwysings na struktuurplanne in die artikel te skrap. 'n Verdere wysiging word aangebring wat voorsiening maak vir 'n gebruik of ontwikkeling van grond voorgestel in 'n grondgebruikaansoek om as bestaanbaar met 'n ruimtelike ontwikkelingsraamwerk beskou te word indien dit nie strydig is met die hoofdoelwitte en oogmerke van die ruimtelike ontwikkelingsraamwerk of dit ondermyn nie. Hierdie wysiging stel munisipaliteite in staat om grondgebruikaansoeke goed te keur wat nie strydig is met die hoofdoelwitte en oogmerke van die ruimtelike ontwikkelingsraamwerk of dit ondermyn nie. Daarbenewens word 'n verdere wysiging aangebring wat bepaal dat 'n voorgestelde gebruik of ontwikkeling van grond verskil van 'n ruimtelike ontwikkelingsraamwerk indien dit nie bestaanbaar is met, of nie voldoen aan, 'n ruimtelike ontwikkelingsraamwerk nie.
- 3.4. **Klousule 7** wysig artikel 35 van die Wet deur te bepaal dat 'n munisipaliteit die oplegging van 'n geldigheidstydperk as 'n voorwaarde van goedkeuring moet oorweeg wanneer hy 'n hersonering, afwyking of vergunningsgebruik goedkeur. Die rede hiervoor is dat die Wet nie meer 'n outomatiese vervalklousule bevat nie, en 'n geldigheidstydperk sal dus as 'n aparte voorwaarde van goedkeuring opgelê moet word. 'n Verdere wysiging word aangebring om verwysings na artikels 43 en 44 van die Wet te skrap, aangesien die Wysigingswetsontwerp voorstel dat hierdie artikels herroep word.

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

bestek van die tersaaklike oorwegings soos voorgeskryf in artikel 49(a) tot (e) van die Wet, en die spesifieke verwysing daarna in artikel 39 is gevolglik oorbodig. Laastens word 'n verdere wysiging aangebring om die verwysing na artikel 43 van die Wet te skrap, aangesien die Wysigingswetsontwerp voorstel dat die artikel herroep word.

- 3.8. **Klousule 11** wysig artikel 40 van die Wet deur uitdruklik voorsiening te maak vir die bepaling van inklusiewe behuising: 'n vereiste wat beoog om aandag te gee aan klimaatsverandering of kusbeskerming of 'n beperking op gebruik om die impak van 'n ontwikkeling te versag of andersins daaraan aandag te gee, as potensiele voorwaardes vir goedkeuring van 'n grondgebruikaansoek.
- 3.9. **Klousule 12** wysig artikel 41(1) van die Wet deur die verwysing na artikel 44 van die Wet te skrap, aangesien die Wysigingswetsontwerp voorstel dat die artikel herroep word.
- 3.10. **Klousule 13** skrap die vereiste in artikel 42 van die Wet dat 'n aansoeker die toestemming van die verbandhouer (indien enige) as deel van 'n grondgebruikaansoek moet indien.
- 3.11. **Klousule 14** herroep artikels 43 en 44 van die Wet. Die ervaring wat opgedoen is met die implementering van hierdie artikels van die Wet is dat hulle herroep kan word aangesien munisipaliteite in die Wes-Kaap nou in 'n posisie is om op 'n verantwoordelike wyse gebruik te maak van die groter buigsaamheid wat deur PAJA en die onderliggende regulasies daarvan voorsien word wanneer hulle die openbaredeelneprosesse bedoel in artikels 43 en 44 uitvoer. Die herroeping van daardie artikels sal die administratiewe las van daardie prosesse verminder en rompslomp uitskakel.
- 3.12. **Klousule 15** wysig artikel 45 van die Wet deur die getal verpligte gevalle te verminder waar 'n munisipaliteit provinsiale kommentaar op 'n grondgebruikaansoek moet versoek. Die volgende vereistes word geskrap:
 - 3.12.1. die vereiste om provinsiale kommentaar te verkry oor 'n ontwikkeling buite die munisipaliteit se beplande buitenste grens van stedelike uitbreiding;
 - 3.12.2. die vereiste om provinsiale kommentaar oor 'n ontwikkeling buite die fisiese rand van die bestaande stedelike gebied te verkry indien die munisipaliteit nie 'n munisipale ruimtelike ontwikkelingsraamwerk goedgekeur het nie;
 - 3.12.3. die vereiste om provinsiale kommentaar te verkry oor 'n hersonering van grond wat vir landbou- of bewaringsdoeleindes gesoneer is.

Daarbenewens wysig klousule 15 ook artikel 45 van die Wet deur die tydperk waarin die Departementshoof skriftelike provinsiale kommentaar oor 'n grondgebruikaansoek aan die munisipale bestuurder moet stuur te verminder van 60 dae na 30 dae vanaf 'n versoek om kommentaar.
- 3.13. **Klousule 16** wysig artikel 47 van die Wet deur die tydperk waarin 'n staatsorgaan kommentaar moet lewer op 'n grondgebruikaansoek te verminder van 60 dae na 30 dae vanaf 'n versoek om kommentaar. 'n Verdere wysiging word aangebring om die bevoegde gesag te bemagtig om, waar van toepassing, die tydperk vir 'n redelike tyd te verleng.
- 3.14. **Klousule 17** wysig artikel 49 van die Wet deur die vereiste in artikel 49(b) te skrap dat 'n munisipaliteit die toepaslike struktuurplanne oorweeg wanneer daar oor 'n grondgebruikaansoek besluit word.
- 3.15. **Klousule 18** wysig artikel 50 van die Wet deur die vereiste dat 'n munisipaliteit persone buiten die aansoeker in kennis stel van 'n besluit beoog

in Hoofstuk IV van die Wet, beperk word tot diegene wat beswaar teen die aansoek ingedien het. 'n Verdere voorgestelde wysiging maak voorsiening vir die vereiste dat die kennisgewing redes vir die besluit verstrek en die ontvangende persoon in kennis stel van die reg om teen die besluit te appelleer, indien sodanige reg bestaan. Dit sal die administratiewe las op munisipaliteite verminder, en ook die appèlprosedure verkort, aangesien dit nie nodig sal wees om afsonderlik redes vir 'n besluit aan te vra nie.

- 3.16. **Klousule 19** voeg 'n nuwe subartikel by artikel 51 van die Wet in om voorsiening te maak dat niks in artikel 51 'n persoon verbied om verrigtinge om geregtelike hersiening aanhangig te maak soos beoog in artikel 6 van PAJA nie.
- 3.17. **Klousule 20** wysig artikel 54 van die Wet deur die vereiste te skrap dat die besluit oor 'n grondontwikkelingsaansoek in koerante en die *Provinsiale Koerant* gepubliseer moet word en dit te vervang met die vereiste dat die besluit vir 'n tydperk van 21 dae op die Departement se webtuiste gepubliseer moet word, in welke kennisgewing die Departement lede van die publiek wie se regte wesenlik en nadelig deur die besluit geraak word, in kennis moet stel van die besluit en redes vir die besluit en hul reg tot appèl. 'n Verdere voorgestelde wysiging bied aan die Departementshoof die diskresie om die besluit en bogenoemde inligting in ander media te publiseer, en skryf ook voor dat die aansoeker of enige persoon wat kommentaar oor die aansoek gelewer het, van die redes vir die besluit ingelig moet word, asook hul reg om te appelleer, waar van toepassing.
- 3.18. **Klousule 21** wysig artikel 55 van die Wet deur die vereiste in artikel 55(c)(ii) te skrap dat die Departementshoof die toepaslike struktuurplanne by oorweging van en beslissing oor 'n grondontwikkelingsaansoek in ag moet neem.
- 3.19. **Klousule 22** wysig artikel 60(5) om voorsiening te maak vir die Provinsiale Minister om die Provinsiale Kabinet, in 'n noodsituasie, van 'n besluit in kennis stel om 'n munisipaliteit te magtig om van die bepalinge van die Wet of 'n voorwaarde van die magtiging af te wyk, so gou as wat redelik moontlik is (in plaas van binne 48 uur) nadat die besluit geneem is, om die afwyking te verleen. 'n Verdere wysiging vervang die verpligting om 'n verslag rakende die besluit binne 14 dae aan die Provinsiale Kabinet voor te lê, met die verpligting om so gou as wat redelikerwys moontlik is, 'n verslag in te dien indien die Provinsiale Minister dit nodig ag onder die omstandighede. Hierdie wysigings word vereis aangesien die implementering van hierdie klousules in die Wet aangedui het dat, in dringende omstandighede, die vereistes onnodig veeleisend en onprakties is, terwyl die Provinsiale Kabinet voldoende toesig sal kan uitoefen indien die vereistes verlaag word tot die standaard wat in die wysigings beoog word.
- 3.20. **Klousule 23** bring 'n tegniese wysiging aan artikel 61 aan om duideliker te maak dat die wetgewing waarna verwys word, wat die onderverdeling van grond reguleer, slegs betrekking het op aansoeke om onderverdeling van landbougrond en nie die konsolidering van die grond nie. 'n Verdere wysiging word aangebring om verwysings na artikel 43 van die Wet te skrap, aangesien die Wysigingswetsontwerp voorstel dat die artikel herroep word.
- 3.21. **Klousule 25** wysig artikel 67 van die Wet ten einde die vereiste te skrap dat 'n munisipaliteit of 'n Departementshoof slegs 'n proses wat ingevolge ander wetgewing voorgeskryf word, mag gebruik om kragtens die Wet te besluit oor 'n aansoek indien daardie ander proses streng aan die vereistes van die Wet voldoen. In plaas daarvan word die vereiste ingestel dat die proses in die ander wetgewing slegs gebruik mag word indien dit redelik en regverdigbaar is om dit te doen, ná oorweging van onder meer die oogmerke van die Wet. Hierdie wysiging sal die regulatoriese las ten opsigte van die verwerking van aansoeke verlig en die integrasie van prosesse onder veelvoudige wette aanmoedig.

- 3.22. **Klousule 26** bring 'n tegniese wysiging aan artikel 68(1)(c) van die Wet aan deur die frase “bepalings of” in die artikel te skrap.
- 3.23. **Klousule 27** wysig die Wet deur die indeling van artikels te wysig ten einde dit bestaanbaar te maak met die wysigings aan die Wet.
- 3.24. **Klousule 28** maak voorsiening vir 'n oorgangstydperk waarvolgens 'n grondgebruikaansoek of grondontwikkelaansoek wat gedoen is voordat die Wysigingswetsontwerp verorden word en in werking tree, en nie voor daardie inwerkingtreding afgehandel is nie, gefinaliseer moet word asof die Wysigingswetsontwerp nie verorden is en in werking getree het nie.
- 3.25. **Klousule 29** maak voorsiening vir die kort titel en inwerkingtreding van die Wysigingswet.

4. OORLEGPLEGING

Departement van die Premier: Regsdienste

Die Wes-Kaapse Konsepwysigingswetsontwerp op Grondgebruikbeplanning van 2023 is vir openbare kommentaar gepubliseer onder Provinsiale Kennisgewing 110/2023 in *Provinsiale Koerant* 8848 gedateer 9 November 2023.

5. PERSONEELIMPLIKASIES

Geen

6. FINANSIËLE IMPLIKASIES

Geen

7. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir plaaslike regering, omgewingsake en ontwikkelingsbeplanning is tevrede dat die bepalings van die Wysigingswetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

INQAKU LENGCACISO NGOKUBANZI:

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

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

UMTHETHO OSAYILWAYO

Ukulungisa uMthetho woCwangciso lokuSetyenziswa koMhlaba weNtshona Koloni, 2014, ukuze kufakwe kwaye kufakwe endaweni yeenkcazo ezithile; ukuphumeza uphuculo lombhalo ngokunxulumene nokwamkelwa kwesikhokelo sophuhliso lomhlaba sikamasipala esilungisiweyo; ukususa iimbekiselo ezithile kwisicwangciso sesakhiwo; ukubonelela ngokusetyenziswa okanye uphuhliso lomhlaba ongangqubaniyo, okanye ongajongeli phantsi, iinjongo eziphambili ezifanelekileyo kunye neenjongo zesikhokelo sophuhliso lomhlaba esisebenzayo kuthathwa njengokufana neso sikhokelo; ukubonelela ngoomasipala ukuba babeke ixesha elisemthethweni njengomqathango wokuvunywa kotshintsho lobume bomhlaba, ukwahlulwa komhlaba, ukudityaniswa, ukusetyenziswa ngemvumelwano okanye uphambuko; ukwenza izibonelelo ezahlukeneyo malunga nesicelo sokwahlulwa komhlaba; ukwenza izibonelelo ezahlukeneyo zokuqwalaselwa kwesicelo sokususwa, ukunqunyanyiswa okanye ukulungiswa komqathango othintelayo; ukwandisa imiqathango enokuthi ibekwe ngumasipala kwimvume yokusetyenziswa komhlaba; ukususa imfuneko yokuba umenzi-sicelo kwisicelo sokusetyenziswa komhlaba kufuneka angenise imvume yomnini wendlu yendlu ukuba ikhona; ukucima izibonelelo ezithile ezifuna upapasho kunye nokunikezelwa kwesaziso malunga nesicelo umasipala asiqwalaselayo ngokoMthetho; ukwenza amalungiselelo awohlukeneyo ngamaxesha, kwaye nini, iNtloko yeSebe kufuneka inike izimvo ngesicelo sokusetyenziswa komhlaba; ukunciphisa ixesha apho iziko likarhulumente kufuneka livakalise izimvo zalo ngesicelo sokusetyenziswa komhlaba; ukwenza amalungiselelo awohlukeneyo okwazisa umntu ngesigqibo sokusetyenziswa komhlaba ngumasipala; ukwenza izibonelelo ezahlukeneyo zenkqubo yokwazisa ngesigqibo esenziwe yiNtloko yeSebe ngesicelo sophuhliso lomhlaba; ukwenza amalungiselelo awohlukeneyo kwiimeko apho uMphathiswa wePhondo enikezela okanye elungisa imeko enxulumene nogunyaziso olungxamisekileyo lokukhululwa kwizibonelelo zalo Mthetho; ukwenza uphuculo lombhalo kumacandelo 61(2)(e) no68(1)(c); ukwenza izibonelelo ezahlukeneyo zeenkqubo nezigqibo ezihlanganisiweyo; ukubonelela ngezibonelelo zenguqu; nangokubonelela nangeminye imiba enxulumene nale.

KUWISWA UMTHETHO KE yiPalamente yePhondo leNtshona Koloni, ngolu hlobo lulandelayo:—

Ukulungiswa kwecandelo 1 lo Mthetho 3 ka-2014

1. ICandelo 1 loMthetho woCwangciso lokuSetyenziswa koMhlaba weNtshona Koloni, 2014 (uMthetho oyintloko), liyalungiswa—

(a) ngokufakela emva kwenkcazo “ukufana” wale nkcazelo ilandelayo:

- “**‘ukudityaniswa’**, ngokunxulumene nomhlaba, kuthetha ukudityaniswakwemihlaba emibini okanye ngaphezulu emeleneyo ibe yiyunithi yomhlaba enye, kwaye kubandakanya ukulungiswa komhlaba ukuze udityaniswe, kodwa akubandakanyi ukudityaniswa kwemihlaba ephuma ngokuthe ngqo ekusekweni okanye ekuhlonyelwe kweskim sophuhliso njengoko kuchaziwe kwicandelo 1(1) lomthetho i*Sectional Titles Act, 1986* (uMthetho 95 ka-1986);”;
- (b) ngokufakela emva kwenkcazo “ubutyebi beliva lemveli” wale nkcazelo ilandelayo:
 “**‘izindlu ezidityanisiweyo’** zithetha indlela ekujoliswe kuyo ngokwesithuba esixhomekeke kwinkqubo yolawulo yeemvume zocwangciso lophuhliso ukunyanzela abaphuhlisi bezakhiwo ukuba babonelele ngezindlu ezifikelelekayo, ezifikelelekayo, ezithengiswayo okanye ezirentwayo, kuphuhliso lwabo okanye kwenye indawo emiselwe ngumasipala;”;
- (c) ngokufakela endaweni yenkcazelo “umqathango onyinayo” yale nkcazelo ilandelayo:
 “**‘imeko ethintelayo’** inentsingiselo eyabelwe yona kumthetho i*Spatial Planning and Land Use Management Act*;”;
- (d) ngokufakelwa emva kwenkcazo “ucwangciso lomhlaba” yale nkcazelo ilandelayo:
 “**‘I-Spatial Planning and Land Use Management Act’** ithetha umthetho i*Spatial Planning and Land Use Management Act, 2013* (uMthetho 16 ka-2013);”;
- (e) ngokufakela endaweni yenkcazelo “ulwahlulwahlulwana” yale nkcazelo ilandelayo:
 “**‘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 okanye ulwahlulo lweyunithi yomhlaba ibe yimihlaba engaphezulu evela ngokuthe ngqo ekusekweni okanye kwisilungiso seskimu sophuhliso njengoko kuchaziwe kwicandelo 1(1) lomthetho i*Sectional Titles Act, 1986* (uMthetho 95 ka-1986);”.

Ukulungiswa kwecandelo 10 loMthetho 3 ka-2014

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

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

Ukulungiswa kwecandelo 11 loMthetho 3 ka-2014

3. ICandelo 11 loMthetho oyintloko lenziwa izilungiso—

- (a) ngokufakela endaweni yesihloko esi sihloko silandelayo:
 “**‘Ulwamkelo [okanye ukwenza izilungiso] kwezikhokelo zophuhliso lomhlaba woomasipala okanye izikhokelo zophuhliso lomhlaba zikamasipala ezilungisiweyo’**”; kwaye
- (b) ngokufakela la magama alandelayo endaweni yamagama andulela umhlathi (a):
 “**‘[Inkqubo]** Inkqubo ezamkelwe ngumasipala **[ngokwecandelo]** ngokwamacandelo 28 nelama³⁴ omthetho oyi*Municipal Systems Act* ngokuphathelele kulwamkelo **[okanye ukuwenziwa izilungiso]** kwisikhokelo sophuhliso lomhlaba sikamasipala okanye isikhokelo sophuhliso lomhlaba kamasipala esilungisiweyo kufuneka silungiselele—”.

Ukulungiswa kwecandelo 13 loMthetho 3 ka-2014

4. ICandelo 13 loMthetho oyintloko lenziwa izilungiso—
- (a) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (a) wecandelwana (1):
- “(a) kufuneka angenise isiqulunqo sesikhokelo sophuhliso lomhlaba sikamasipala okanye isiqulunqo **[sezilungiso ezenziwe]** lwesikhokelo sophuhliso lomhlaba sikamasipala esilungisiweyo kuMphathiswa wePhondo ukuze anike izimvo zakhe ngaso ngento ebhaliweyo; kwaye”; kwaye
- (b) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (b) wecandelwana (1):
- “(b) ayinako ukuba iingasamkela isikhokelo sophuhliso lomhlaba sikamasipala sayo okanye **[yamkele izilungiso ezenziwe]** isakhelo sophuhliso lomhlaba esilungisiweyo sikamasipala kuso de—”.

Ukulungiswa kwecandelo 14 loMthetho 3 ka-2014

5. ICandelo 14 loMthetho oyintloko lenziwa izilungiso—
- (a) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (a):
- “(a) isaziso esibhaliweyo ngesigqibo sokwamkela **[okanye sokwenza izilungiso]** kwisikhokelo sophuhliso lomhlaba sikamasipala okanye isikhokelo sophuhliso lomhlaba sikamasipala esilungisiweyo, kunye nezizathu zeso sigqibo;”; kwaye
- (b) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (b):
- “(b) isikhokelo sophuhliso lomhlaba sikamasipala esamkelweyo **[okanye esenziwe izilungiso]** okanye isikhokelo sophuhliso lomhlaba sikamasipala esilungisiweyo; kunye”.

Ukulungiswa kwecandelo 19 loMthetho 3 ka-2014

6. ICandelo 19 loMthetho oyintloko lenziwa izilungiso—
- (a) ngokufakela endaweni yesihloko esi sihloko silandelayo:
- “**Uthotyelo lwezikhokelo zophuhliso lomhlaba [okanye izicwangciso zolwakhiwo zezinto ezilulwakhiwo] imfano yazo nophambuko kuzo**”;
- (b) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (1):
- “(1) Ukuba isikhokelo sophuhliso lomhlaba **[okanye isicwangciso sento elulokhiwo sakhiwo]** silungisela 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]**.”;
- (c) nangokufakela eli candelwana lilandelayo endaweni yecandelwana (2):
- “(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]**, okanye alujongeli phantsi, iinjongo eziphambili kunye neenjongo kwisikhokelo sophuhliso lomhlaba [okanye kwisicwangciso sezinto ezilulwakhiwo] oko kusetyenziswa okanye oko kuphuhliswa kuthathwa ngokuba kuyahambelana nesikhokelo sophuhliso lomhlaba **[okanye nesicwangciso sezinto ezilulwakhiwo]**.”; kunye
- (d) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (3):
- “(3) Ukuba ngaba olu setyenziso okanye olu phuhliso lomhlaba luphakanyiswayo kwisicelo sokusetyenziswa okanye sokuphuhliswa komhlaba asithobeli kwaye **[nendlela yokusetyenziswa komhlaba echaziweyo]** kweso sikhokelo sophuhliso lomhlaba **[okanye kwesi sicwangciso sezinto ezilulwakhiwo]**, olo setyenziso okanye olo phuhliso luphambuka kweso sikhokelo sophuhliso lomhlaba **[okanye kweso sicwangciso esilulwakhiwo]**.”.

Ukulungiswa kwecandelo 35 loMthetho 3 ka-2014

7. ICandelo 35 loMthetho oyintloko lenziwa izilungiso—

- (a) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (2):
 “(2) Xa umasipala athe ngokuzibonela kwakhe utshintsho lwesimo somhlaba, engenguye umnini wawo, **[kufuneka ukuba umasipala athobele amacandelo 43 nelama44 kwaye]** kufuneka athathele ingqalelo ubuncinane la miba ikhankanywe kwicandelo 49(a) ukuya ku-(e).”; kwaye
- (b) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (3):
 “(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 njengemqathango wokuphumeza.”.

Ukulungiswa kwecandelo 36 loMthetho 3 ka-2014

8. ICandelo 35 loMthetho oyintloko lenziwa izilungiso—

- (a) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (3):
 “(3) Umasipala kufuneka **[afune ubuncinane oku kulandelayo]** ngokuphathelele kwisicelo sokwahlulwa komhlaba afune ukuba umntu onobuchule angenise isicwangciso sokwahlulwa komhlaba esibonisa oku kulandelayo:
- (a) **[ukuba utshintsho lobume bomhlaba lubandakanya ukuba isicelo esinxulumene nomhlaba otshintshwe ubume bomhlaba, okanye oza kutshintshwa ubume bomhlaba, ngenjongo equka ukwahlulwa komhlaba]** indawo ezikuyo ezi ziza zicetywayo, iindawo zikawonke-wonke nomhlaba ofunelwa iindawo zikawonke-wonke; kananjalo
- (b) **[nokungeniswa kwesicwangciso sokwahlulwa komhlaba olubonisa oku kulandelayo:**
- (i) **indawo ezikuyo ezi ziza zicetywayo, iindawo zikawonke-wonke nomhlaba ofunelwa iindawo zikawonke-wonke; kunye**
- (ii) **nezimo zomhlaba ezicetywayo lwezi ziza zicetywayo.”;**
- (b) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (6):
 “(6) Xa umasipala **[evumela utshintsho kwimo yomhlaba ngenjongo ebandakanya ulwahlulwa-hlulo lomhlaba, kufuneka abeke imiqathango ebandakanya, ubuncinane, oku kulandelayo—]** ubuncinane isicelo solwahlulwana olubandakanya umhlaba lowo umenzisicelo anenjongo yolwahlulwana ngakumbi okanye ulwahlulwana kwixesha elizayo, umasipala unokusiphumeza isicelo kuphela ukuba loo mhlaba ucandiwe, okanye uza kucandwa, ngenjongo yokubandakanya ulwahlulwa-hlulo.
- [(a) iimfuneko eziphathelele kwingxinano;**
- (b) iindlela zokusetyenziswa komhlaba eziphambili nobungakanani baloo mhlaba; kananjalo**
- (c) isicwangciso sokungenisa okanye isiseko esiquka—**
- (i) **iindlela zezothutho eziphambili;**
- (ii) **iindlela zokusetyenziswa komhlaba eziphambili;**
- (iii) **izibonelelo ezinkulu;**
- (iv) **iimfuneko zezigqeba zorhulumente;**
- (v) **iimfuneko zeendawo ezivulelekileyo zikawonke-wonke; kunye**
- (vi) **nezithintelo kuphuhliso olululwakhiwo.]”;**
- (c) ngokufakela emva kweli candelwana lilandelayo endaweni yecandelwana (6):
 “(6A) Xa umasipala evumela utshintsho kwimo yomhlaba olukhankanywe kwicandelwana (6), kufuneka abeke imiqathango ebonelela ubuncinane ngoku kulandelayo:
- (a) **iimfuneko eziphathelele kwingxinano;**
- (b) **iindlela zokusetyenziswa komhlaba eziphambili nobungakanani baloo mhlaba; kananjalo**

- (c) nesicwangciso sokungenisa esineenkukacha okanye isiseko esiquka—
- (i) iindlela zothutho eziphambili;
 - (ii) iindlela zokusetyenziswa komhlaba eziphambili;
 - (iii) izibonelelo ezinkulu;
 - (iv) iimfuneko zezigqeba zorhulumente;
 - (v) iimfuneko zeendawo ezivulelekileyo zikawonke-wonke; kunye
 - (vi) nezithintelo kuphuhliso olululwakhiwo.”; 5
- (d) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (d) wecandelwana (8): 10
- “(d) ubhaliso lodluliselo lobunini besiza somhlaba sibonakaliswe kwidayagramu okanye kubuncinane besiza somhlaba sibonakaliswe kwisicwangciso ngokubanzi ngokwemiqathango yoMthetho oyi*Deeds Registries Act*, okanye umenzisicelo kufuneka angenise kumasipala isiqinisekiso setayitile ebhalisiweyo ngokomthetho i*Deeds Registries Act* echaza ukuba iyunithi yomhlaba eboniswe kwidayagramu okanye iyunithi enye entsha yomhlaba eboniswe kwisicwangciso ngokubanzi ibhalisiwe.”; 15
- kwaye
- (e) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (9): 20
- “(9) Umasipala kufuneka, ngokuhambelana nobuncinane bemigangatho enokuthi imiselwe—
- (a) kuthathelwe ingqalelo ukumisela, njengomqathango wokuvunywa kolwahlulwahlulo, ixesha elisemthethweni lokuphelelwa kolwamkelo ukuba umenzi wesicelo uyasilela ukuthobela iimfuno ekubhekiselwe kuzo kwicandelwana (8) kwixesha elisemthethweni; kwaye 25
 - (b) enze amalungiselelo okuqinisekisa ulwahlulo, kubandakanywa ukuqinisekiswa kocando kunye nelungelo lobunini beendawo zikawonkewonke kumasipala, emva okanye emva kokuthotyelwa kweemfuno ezichazwe kwicandelwana (8).”.

Ukulungiswa kwecandelo 38 loMthetho 3 ka-2014

9. ICandelo 38 loMthetho oyintloko lenziwa izilungiso ngokufakela eli candelwana (3) lilandelayo endaweni yecandelwana:

- “(3) Xa umasipala evuma ukuhlanganiswa kweziza zomhlaba, kufuneka ukuba aqwalasele umba wokubekwa kwexesha lokuphelelwa kwaloo mvume njengemqathango wokunika imvume.”. 35

Ukulungiswa kwecandelo 39 loMthetho 3 ka-2014

10. ICandelo 39 loMthetho oyintloko lenziwa izilungiso—

- (a) nangokufakela eli candelwana lilandelayo endaweni yecandelwana (2): 40
- “(2) Isaziso seso sicelo kufuneka singeniselwe aba bantu balandelayo ubuncinane **[ngokwecandelo 44]**:
- (a) nawuphi na umntu okhankanywe kwitayitile neluncedo kuye imiqathango yonyino, kunye
 - (b) nawuphi na omnye umntu aya kuthi amalungelo akhe okanye oko akulindeleyo ngokwasemthethweni kuya ngokubonakalayo nangokungalunganga kuchatshazelwa kukuvunywa kweso sicelo.”; 45
- (b) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (3): 50
- “(3) Xa umasipala esusa, emisa okwexeshana okanye esenza izilungiso kwimiqathango enyiniweyo ngokukubona, kufuneka ukuba umasipala athobele icandelwana (2) **[necandelo 43 kwaye kufuneka athathele ingqalelo laa imiba ikhankanywe kwicandelo 49(a) ukuya ku-(e)]**.”; kwaye
- (c) ngokucima icandelwana (5). 55

Ukulungiswa kwecandelo 40 loMthetho 3 ka-2014

11. ICandelo 40 loMthetho oyintloko lenziwa izilungiso—

(a) ngokufakela lo mhlathi (i) weli candelwana (2) lilandelayo:

“(i) iimfuno ezijoliswe kuqwalaselo lokuguquka kwemo yezulu okanye kukhuseleko lonxweme.”;

(b) ngokufakela endaweni yesingxi kumhlathi (q) wecandelwana (2) isemikhloni; kwaye

(c) ngokongeza emva komhlathi (q) endaweni yecandelwana (2) lalo mhlathi ulandelayo:

“(r) izindlu ezidityanisiweyo;

(s) uthintelo losetyenziso ukunciphisa okanye ukulungisa ngenye indlela impembelelo yophuhliso.”.

Ukulungiswa kwecandelo 41 loMthetho 3 ka-2014

12. ICandelo 41 loMthetho oyintloko lenziwa izilungiso ngokufakela eli candelwana (1) lilandelayo endaweni yecandelwana:

“(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] ngokwecandelo 40 [nelama-44].”.

Ukufakelwa endaweni yecandelo 42 loMthetho 3 ka-2014

13. Eli candelo lilandelayo lifakewe endaweni yecandelo 42 loMthetho oyintloko:

“42. Umenzisicelo kwisicelo sokusetyenziswa komhlaba kufuneka ubuncinane angenise oku kulandelayo kumasipala ngokuphathelele kulo mhlaba uchaphazelekayo:

(a) ikopi yesicatshulwa esifanelekileyo sesicwangciso esiqhelekileyo esivunyiweyo okanye umzobo; kwaye

(b) nekopi yetayitile yobunini.”.

Ukutshitshiswa kwecandelo 43 nelama44 loMthetho 3 ka-2014

14. ICandelo 43 nelama44 loMthetho oyintloko ayatshitshiswa.

Ukulungiswa kwecandelo 45 loMthetho 3 ka-2014

15. ICandelo 45 loMthetho oyintloko lenziwa izilungiso—

(a) ngokucima imihlathi (a), (b) no(c) yecandelwana (1); kunye

(b) nangokufakela eli candelwana lilandelayo endaweni yecandelwana (2):

“(2) INTloko yeSebe kufuneka ukuba ithi zingaphelanga iintsuku [ezingama-60] ezingama-30 emva kokuba isifumene isicelo sokuba ivakalise ezi zimvo zikhankanywe kwicandelwana (1), ingenise kumphathi kamasipala izimvo zephondo ngento ebhaliweyo.”.

Ukulungiswa kwecandelo 47 loMthetho 3 ka-2014

16. ICandelo 47 loMthetho oyintloko lenziwa izilungiso—

(a) ngokufakela kwicandelwana (1) ibinzana “60” endaweni yebinzana “30”; kwaye

(b) ngokufakela emva kweli candelwana lilandelayo endaweni yecandelwana (2):

“(3) Ugunyaziwe onobuchule unokuthi, apho kufanelekileyo, andise ixesha elichazwe kwicandelwana (1) kangangexesha elifanelekileyo.”.

Ukulungiswa kwecandelo 49 loMthetho 3 ka-2014

17. ICandelo 49 loMthetho oyintloko lenziwa izilungiso ngokucima umhlathi (b).

Ukufakelwa endaweni yecandelo 50 loMthetho 3 ka-2014

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

“Ukwaziswa kwezigqibo zoomasipala

- 50.** Umasipala kufuneka ukuba, emva kokuba esenzile esi sigqibo sikhankanywe kwesi Sahluko, athi ngembalelwano—
- (a) amazise umenzisicelo naye nawuphi na umntu ongenise isichaso kwisicelo, ngesigqibo nangezizathu zesigqibo; kwaye
- (b) abazise abo bantu ngalo naliphi na ilungelo lokubhena.”.

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Ukulungiswa kwecandelo 51 loMthetho 3 ka-2014

19. ICandelo 51 loMthetho oyintloko lenziwa izilungiso ngokongeza eli candelwana lilandelayo:

- “(5) Akukho nto kweli candelo enqanda umntu ekuqaliseni inkqubo yokuhlaziya ngokomthetho kwesigqibo njengoko kuchaziwe kwicandelo 6 lomthetho i*Promotion of Administrative Justice Act, 2000* (uMthetho 3 ka-2000).”.

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Ukulungiswa kwecandelo 54 loMthetho 3 ka-2014

20. ICandelo 54 loMthetho oyintloko lenziwa izilungiso ngokufakela eli candelwana (7) lilandelayo endaweni yecandelwana:

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- “(7) INTloko yeSebe, kwiintsuku ezingama21 zesigqibo sayo ngesicelo sophuhliso lomhlaba—
- (a) kufuneka isipapashe isigqibo kwiwebhusayithi yeSebe kangangesithuba seentsuku ezingama21 ubuncinane kwaye, kolo papasho, yazise amalungu oluntu anamalungelo achatshazelwa ngokubonakalayo nangokubi sisigqibo nazizizathu zesigqibo nelungelo lokubhena;
- (b) ingenza uluntu ukuba lwaziswe ngesigqibo nezizathu zeso sigqibo ngokupapasha isaziso kwi*Gazethi yePhondo* okanye kumanye amajelo eendaba enokuthi iNTloko yeSebe iwabone efanelekile; kwaye
- (c) kufuneka ngembalelwano azise umenzisicelo kwaye nawuphi na umntu ongenise izimvo ngesigqibo nangezizathu zeso sigqibo, kwaye abazise abo bantu ngalo naliphi na ilungelo lokubhena, apho kufanelekileyo.”.

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Ukulungiswa kwecandelo 55 loMthetho 3 ka-2014

21. ICandelo 55 loMthetho oyintloko lenziwa izilungiso ngokucima umhlathana (ii) womhlathi (c).

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Ukulungiswa kwecandelo 60 loMthetho 3 ka-2014

22. ICandelo 60(5) loMthetho oyintloko lenziwa izilungiso—

- (a) ngokufakela la magama alandelayo endaweni yamagama andulela umhlathi (a):
- “(5) UMphathiswa wePhondo kufuneka ngokukhawuleza kangangoko kunokwenzeka emva kokuba ugunyaziso lunikezelwe phantsi kwecandelwana (2), okanye umqathango wolo gunyaziso ulungisiwe okanye warhoxiswa phantsi kwecandelwana (6)—”;
- (b) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (a) wecandelwana (5):
- “(a) [zithi zingekapheli iiyure ezingama48 lunikiwe olu gunyaziso lukhankanywe kwicandelwana (2), okanye kwenziwe isilungiso kulo phantsi kwecandelwana (6),] ayazise iKhabhinethi yePhondo ngalo, futhi ayalele nokuba kupapashwa kwesaziso kwi*Gazethi yePhondo*; kananjalo”; kwaye
- (c) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (b) wecandelwana (5):
- “[zithi zingekapheli iintsuku ezili14 emva kogunyaziso olo okanye emva kokwenziwa izilungiso okanye kokurhoxiswa komqathango,] angenise ingxelo yoko kwiKhabhinethi yePhondo ukuba uMphathiswa wePhondo ubona kuyimfuneko phantsi kwezo meko.”.

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Ukulungiswa kwecandelo 61 loMthetho 3 ka-2014

23. ICandelo 61 loMthetho oyintloko lenziwa izilungiso—

- (a) ngokufakela endaweni yamagama owandulelayo umhlathi (a) wecandelwana (2) la magama alandelayo: 5
- “(2) Umasipala usenokuthi[, **ngokwemiqathango yecandelo 43,**] abonelele alawule ulwaphulelo ekusetyenzisweni kwecandelo 36(1) okanye 38(1) kwiintlobo zolwahlulwa-hlulo okanye uhlanganiso lweziza zomhlaba oluvela koku kulandelayo:”; kwaye
- (b) ngokufakela le mihlathana ilandelayo (i) no(ii) endaweni yomhlathi (e) wecandelwana (2) wale mihlathana ilandelayo, ngokulandelelanayo: 10
- “(i) kwimeko yecandelwana okanye zohlanganiso, alukhokeleli kulwandiso lwedolophu; kwaye
- (ii) kwimeko yecandelwana, kufuna imvume ngokomthetho olawula icandelwana lezolimo; okanye”.

Ukulungiswa kwecandelo 66 loMthetho 3 ka-2014

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24. ICandelo 66 loMthetho oyintloko lenziwa izilungiso—

- (a) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (a) wecandelwana (1):
- “(a) ngokwamkela isikhokelo sophuhliso lomhlaba [**okanye ngokwenza izilungiso kuso**] kamasipala okanye isikhokelo sophuhliso lomhlaba esilungisiweyo;”; 20
- (b) ngokufakela lo mhlathi ulandelayo endaweni yomhlathi (a) wecandelwana (4):
- “(a) kokwenza isigqibo ngokwamkela [**isikhokelo sophuhliso lomhlaba sephondo okanye sommandla wephondo okanye phambi kokwenza izilungiso kuso**] kwesakhelo sophuhliso lomhlaba wephondo, isakhelo sophuhliso lomhlaba wephondo esilungisiweyo okanye isakhelo sophuhliso lomhlaba wommandla sephondo;”; kwaye 25
- (c) ngokufakela lo mhlathi (b) wecandelwana (4) lalo mhlathi ulandelayo:
- “(b) kokuvakalisa ezi zimvo zikhankanywe kwicandelo 12(4) okanye 13(2) ngokwamkelwa [**okanye ngokwenziwa izilungiso**] kwesikhokelo sophuhliso lomhlaba sikamasipala okanye isikhokelo sophuhliso lomhlaba esilungisiweyo;”. 30

Ukulungiswa kwecandelo 67 loMthetho 3 ka-2014

25. ICandelo 67 loMthetho oyintloko lenziwa izilungiso—

- (a) nangokufakela eli candelwana lilandelayo endaweni yecandelwana (5): 35
- “(5) Umasipala okanye iNtloko yeSebe isenokuthi yenza isigqibo ngesicelo esikwafuna ulwamkelo phantsi kwemiqathango yeminye imithetho ngokwenkqubo ebekwe kuloo mthetho, kodwa kuphela xa [**ngaba inkqubo leyo iyahambelana neemfuneko zemithetho kamasipala efanelekileyo kunye nalo Mthetho**] iyavakala kwaye ifanelekile ukwenjenjalo;”; 40
- (b) ngokufakela emva kweli candelwana lilandelayo endaweni yecandelwana (5):
- “(5A) Xa emisela ukuba ingaba ukuthatha isigqibo ngesicelo ngokusekelwe kwinkqubo echazwe phantsi komnye umthetho njengoko kuchaziwe kwicandelwana (5) kufanelekile kwaye kuyathetheleleka, kufuneka umasipala okanye iNtloko yeSebe ithathele ingqalelo yonke imiba echaphazelekayo, kuquka— 45
- (a) iinjongo zalo Mthetho;
- (b) uhlobo nenjongo, kunye nemfuneko, yokuvunywa kwesicelo;
- (c) isiphumo esinokwenzeka sokuvunywa kwesicelo; 50
- (d) ungxamiseko lokwamkelwa kwesicelo okanye ungxamiseko lwalo mcimbi; kwaye
- (e) imfuneko yokukhuthaza ulawulo olululo nolawulo olulungileyo.”; kwaye
- (c) ngokucima icandelwana (6). 55

Ukulungiswa kwecandelo 68 loMthetho 3 ka-2014

26. ICandelo 68 loMthetho oyintloko lenziwa izilungiso ngokufakela lo mhlathi (c) weli candelwana (1) lalo mhlathi ulandelayo:

“(c) neyokuthatha naliphi na inyathelo eligunyaziswa phantsi kwalo Mthetho **[ukuthotyelwa kwemiqathango]** imiqathango yolwamkelo olunikwe phantsi kwecandelo 54 okanye 56(6) okanye lokulungisa utyeshelo lwayo okanye utyeshelo lwecandelo 53(1) okanye yokulungisa.”.

Ukulungiswa kolungiselelo lwamacandelo oMthetho 3 ka-2014

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27. Ulungiselelo lwamacandelo phambi kwecandelo 1 loMthetho oyintloko luyalungiswa—

- (a) ngokufakela endaweni yereferensi kwicandelo 11 lalo mba ulandelayo:
 “11. Ulwamkelo **[okanye ukwenziwa izilungiso]** kwezikhokelo zophuhliso lomhlaba kamasipala okanye izikhokelo zophuhliso lomhlaba zikamasipala ezilungisiweyo”;
- (b) ngokufakela endaweni yereferensi kwicandelo 19 lalo mba ulandelayo:
 “19. Uthotyelo lwezikhokelo zophuhliso lomhlaba **[nezicwangciso zolwakhiwo zezinto ezilulwakhiwo]** okanye imfuno yazo nophambuko kuzo”; kwaye
- (c) ngokucinywa kweereferensi kuacandelo 43 nelama44.

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Izibonelelo zexeshana

28. Isicelo sokusetyenziswa komhlaba okanye isicelo sophuhliso lomhlaba esenziwe phambi kokuqalisa ukusebenza kwalo Mthetho esingekaqosheliswa phambi kokuqalisa ukusebenza kwalo Mthetho kufuneka siqoshelise ngokungathi lo Mthetho awusebenzi.

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Isihloko esifutshane nokuqalisa

29. Lo Mthetho ubizwa ngokuba nguMthetho woLungiso LoCwangciso lokuSetyenziswa koMhlaba weNtshona Koloni, 2025, kwaye uya kuqalisa ukusebenza ngaloo mhla uthe wamiselwa yiNkulumbuso ngompoposho kwi*Gazethi yePhondo*.

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IMEMORANDAM KWIINJONGO ZOMTHETHO OSAYILWAYO WOLUNGISO LOCWANGCISO LOSETYENZISO LOMHLABA WENTSHONA KOLONI

1. IMVELAPHI

- 1.1. UMthetho oSayilwayo woLungiso loCwangciso loSetyenziso loMhlaba weNtshona Koloni (UMthetho oSayilwayo woLungiso) uceba izilungiso kumacandelo ahlukeneyo oMthetho woCwangciso loSetyenziso loMhlaba weNtshona Koloni, 2014 (uMthetho 3 ka-2014) (uMthetho). Izilungiso ezicetywayo zijoliswe ekuphuculeni isikhokelo sezomthetho esimiselwa nguMthetho wocwangciso nophuhliso, kunye nasekucutheni imiqobo nemimiselo egqithisileyo, ngokubhekiselele kumava asebenzayo afunyenwe ngexesha lokusetyenziswa koMthetho.
- 1.2. UMthetho wamkelwa ngomhla wama31 kweyoKwindla 2014. Ukuqaliswa koMthetho kwahlulwa ngokubhekiselele koomasipala abohlukeneyo ngesithuba sonyaka ka2015 ukuya ku2016.
- 1.3. Lo Mthetho upapashwe ngexesha apho oomasipala abaninzi baseNtshona Koloni bebewinkqubo yokwamkelwa kwemithetho kamasipala kucwangciso lokusetyenziswa komhlaba kamasipala. Lo Mthetho waqinisekisa ukuba ngeli xesha lotshintsho lwenkqubo yohlengahlengiso lomthetho, oomasipala baphumeza iimfuneko ezithile kwaye bathobela ubuncinci bemigangatho ethile.
- 1.4. Ukusukela ngonyaka ka2016, bonke oomasipala eNtshona Koloni baye bamkela kwaye baphumeza imithetho kamasipala ethi, Phakathi kwezinye izinto inike impembelelo kule mfuno nemigangatho, iimfuno kwaye kuthotywe kubuncinane bemigangatho ethile. Lo Mthetho uphinde wajongwa kwakhona ngokwale mvelaphi kuthathelwa ingqalelo amava kamasipala. Ngesi sizathu, ezona mfuno zisezantsi kunye nemigangatho kwezinye iimeko ziyawalasela ngokutsha kwaye zihlengahlengiswe, kwaye kwezinye iimeko ziyathotywa ukuze kubonelelwe ngengqiqo eyongezelelekileyo kamasipala kwiinkqubo zocwangciso lokusetyenziswa komhlaba.
- 1.5. Ezinye izilungiso ezicetywayo kulo Mthetho zijolise eukunciphiseni imiqobo kunye nolawulo olugqithisileyo, zijolise ekucaciseni ngakumbi izibonelelo ezithile kunye nokuphucula isicatshulwa, kwaye zijolise ekulungelelaniseni uMthetho kunye neeMeko zangoku, umzekelo, ngokususa izalathisi ezithile kwizicwangciso zesakhiwo ukuze zibonise ukuba zonke izicwangciso zolwakhiwo ziye zapheliswa ngoku kubo bonke oomasipala beNtshona Koloni.

2. IINJONGO ZOMTHETHO OSAYILWAYO WOLUNGISO

Iinjongo zoMthetho oSayilwayo woLungiso zezi—

- 2.1. Kukufaka nokulungisa iingcaciso ezithile;
- 2.2. Ukwazisa ukuba bhetyebhetye ngokuphathelele kwimiba eyahlukeneyo yolawulo lwephondo locwangciso lukamasipala, kubandakanywa apho isicelo solwahlulahlulwana lomhlaba singacwangcisanga ukwahlulwa kwixesha elizayo okanye olunye ulwahlulwahlulwana;
- 2.3. ukuphelisa imiqobo kunye nolawulo olugqithisileyo, ngokunxulumene nokubandakanyeka kwephondo kwizicelo zokusetyenziswa komhlaba;
- 2.4. ukulungelelanisa noMthetho kunye nomthetho i*Local Government: Municipal Systems Act, 2000* (uMthetho 32 ka-2000) (MSA), malunga nokwamkelwa kwezikhokelo zophuhliso lomhlaba ezilungisiweyo;

- 2.5. ukususa iimfuno ezigqithisileyo kuMthetho olawula ukususwa kwemiqathango ethintelayo;
- 2.6. ukwandisa kwemiqathango enokuthi ibekwe ngumasipala kwimvume yokusetyenziswa komhlaba;
- 2.7. ukubonelela ngengqiqo ethe kratya koomasipala malunga nothethwano noluntu kunye nezinye iinkqubo anokuthi umasipala azilandele phambi kokuba athathe izigqibo malunga nezicelo zokusetyenziswa komhlaba;
- 2.8. ukunciphisa uxanduva lolawulo oluvelayo xa uMphathiswa wePhondo efuna ukunika imvume yongxamiseko kunye nezigunyaziso phantsi koMthetho; kunye
- 2.9. nokwenza uphuculo kumbhalo.

3. IZIQULATHO ZOMTHETHO OSAYILWAYO WOLUNGISO

- 3.1. **Isolotya 1** libonelela ngolungiso lweenkcazelo ezichazwe kwicandelo 1 loMthetho ngolu hlobo lulandelayo:
 - 3.1.1. iinkcazelo ezintsha zifakelwe “izindlu ezidityanisiweyo” kunye nomtepho “*iSpatial Planning and Land Use Management Act*”;
 - 3.1.2. inkcazelo “yemiqathango ethintelayo” ilungiswe ukuze ihambelane nenkcazelo kumthetho *iSpatial Planning and Land Use Management Act, 2013* (uMthetho 16 ka-2013) (SPLUMA), kunye nokususa ukungacaci kunye nokungaqiniseki okudalwe kukungabandakanywa kwinkcazelo yomhlaba osendaweni yomnye umnini obhaliswe kwitayitile yaloo ndawo okanye ezidala amalungelo angawo;
 - 3.1.3. Inkcazelo “yolwahlulwahlulwana” ilungisiwe ukuze ikhuphele ngaphandle ngokucacileyo ukusekwa okanye ulungiso lwenkqubo yophuhliso njengoko kuchaziwe kwicandelo 1(1) lomthetho *iSectional Titles Act, 1986* (uMthetho 95 ka-1986), ukuze kucace gca ukuba ulwahlulwahlulwana okanye uhlanganiso oluvela ekusekweni okanye kwizilungiso azikho phantsi kweemfuno eziqhelekileyo ezichazwe kwicandelo (36)(1) nelama38(1) loMthetho.
- 3.2. **Isolotya 2, 3, 4, 5 kunye nelama24** lenza izilungiso kwicandelo le10, 11, 13, 14 nelama66 loMthetho ngokwahlukeneyo, ukubonisa imfuneko kwiMSA enyanzelisa oomasipala ukuba bamkele isikhokelo sophuhliso lomhlaba esilungisiweyo.
- 3.3. **Isolotya 6** lenza izilungiso kwicandelo le19 loMthetho ukuze kususwe zonke izalathisi kwicandelo lezicwangciso zolwakhiwo Kwenziwa esinye isilungiso esibonelela ngokusetyenziswa okanye uphuhliso lomhlaba ocetywayo kwisicelo sokusetyenziswa komhlaba ukuze uthathwe ngokuba uhambelana nesikhokelo sophuhliso lwesithuba ukuba akunjalo. Esi silungiso sivumela oomasipala ukuba baphumeze izicelo zokusetyenzwa komhlaba ezingahambelani ngqo nenjongo yokutyunjwa okufanelekileyo kwisikhokelo sophuhliso lomhlaba, kodwa ezingangqubaniyo okanye ezingajongeli phantsi, iinjongo kunye neenjongo zalo eziphambili. Ukongeza, kongezwa esinye isilungiso esibonelela ukuba ukusetyenziswa okucetywayo okanye uphuhliso lomhlaba luphambuke kwisakhelo sophuhliso lomhlaba ukuba awuhambelani okanye awuhambelani nesikhokelo sophuhliso lomhlaba.
- 3.4. **Isolotya 7** lilungisa icandelo 35 loMthetho wokubonelela ukuba umasipala kufuneka acinge ngokubeka ixesha lokuqinisekiswa njengomqathango wokuvunywa xa evuma ukusetyenziswa kocando ngokutsha, ukuhamba okanye imvume yokusetyenziswa. Isizathu soku kukuba lo Mthetho

awusenawo isolotya lokuphelelwa lixesha ngokuzenzekelayo, kwaye ngoko ke ixesha lokusebenza kufuneka limiselwe njengomqathango owahlukileyo wokuvunywa. Kwenziwa olunye ulungiso ukuze kususwe iimbekiselo kumacandelo 43 nelama44 oMthetho, njengoko uMthetho oSayilwayo woLungiso uphakamisa ukuba la macandelo ukuba atshitshiswe.

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

nesikhokelo somthetho kumasipala xa eqwalasela isicelo sokususwa, sokunqunyanyiswa okanye sokulungiswa komqathango osisithintelo. Ngaphaya koko, isicelo sokususwa, sokunqunyanyiswa okanye ukulungiswa komqathango osisithintelo sibandakanya isicelo sokusetyenziswa komhlaba, ngoko ke iwela kumda weengqwalasela ezifanelekileyo ezichazwe kwicandelo 49(a) ukuya ku(e) loMthetho kwaye intsingiselo ethe ngqo kuyo kwicandelo 39 ngenxa yoko ayibalulekanga. Okokugqibela, kwenziwa esinye isilungiso ukuze kususwe ukubhekiselela kwicandelo 43 loMthetho, njengoko uMthetho oSayilwayo woLungiso uphakamisa ukuba eli candelo malitshitshiswe.

- 3.8. **Isolotya 11** ulungisa icandelo 40 loMthetho ukuze kubonelelwe ngezindlu ezidityanisiweyo, imfuno ejolise ekusombululeni ukutshintsha kwemozulu okanye ukhuseleko lonxweme okanye uthintelo ekusetyenzisweni kwawo ukunciphisa okanye ukusombulula ifuthe lophuhliso, njengemeko enokubakho yokuvunywa kwesicelo nokusetyenziswa komhlaba.
- 3.9. **Isolotya 12** lilungisa icandelo 41(1) loMthetho ukuze kususwe okuchazwe kwecandelo 44 loMthetho, njengoko uMthetho oSayilwayo woLungiso uphakamisa ukuba eli candelo malitshitshiswe.
- 3.10. **Isolotya 13** lisusa imfuneko kwicandelo 42 loMthetho yokuba umenzisicelo kufuneka angenise imvume yomninindlu (ukuba ukhona) njengenxalenye yesicelo sokusetyenziswa komhlaba.
- 3.11. **Isolotya 14** litshitshisa icandelo 43 nelama44 loMthetho, ngokulandelelana. Amava afunyenwe ekuzalisekiseni la macandelo alo Mthetho ibe ngawokuba angatshitshiswa njengoko oomasipala baseNtshona Koloni ngoku bekwisikhundla sokusebenzisa ufikeleleko olukhulu olubonelelwa yiPAJA kunye nemigaqo yayo esisiseko xa kuqhutywa iinkqubo zokuthatha inxaxheba koluntu ekubhekiselwe kuzo kwicandelo 43 nelama44. Ukutshitshiswa kwala macandelo kuya kunciphisa umthwalo wolawulo lwezo nkqubo kwaye kuphelise imiqathango ebonakala ithintela amanqanab'olawulo.
- 3.12. **Isolotya 15** lenza izilungiso kwiCandelo 45 loMthetho ukuze kuncitshiswe inani leemeko ezisisinyanzelo apho umasipala kufuneka acele izimvo zephondo malunga nesicelo sokusetyenziswa komhlaba. Ezi mfuno zilandelayo ziyasuswa:
 - 3.12.1. imfuno yokufumana uluvo lwephondo malunga nophuhliso olungaphandle komda ocetyiweyo kamasipala wangaphandle wokwandiswa kwedolophu;
 - 3.12.2. imfuno yokufumana uluvo lwephondo malunga nophuhliso olungaphandle komda wendawo ekhoyo yedolophu ukuba umasipala akasivumanga isikhokelo sophuhliso lomhlaba sikamasipala;
 - 3.12.3. imfuneko yokufumana uluvo lwephondo malunga nocando lomhlaba omiselwe ulimo okanye ulondolozondalo.

Ukongeza, isolotya 15 lenza izilungiso kwicandelo 45 loMthetho ngokunciphisa ixesha apho iNtloko yeSebe kufuneka ingenise izimvo zephondo ezibhaliweyo kumphathi kamasipala ngesicelo sokusetyenziswa komhlaba ukusuka kwiintsuku ezingama60 ukuya kwiintsuku ezingama30 zokucela izimvo.
- 3.13. **Isolotya 16** lenza izilungiso kwicandelo 47 loMthetho ukuze kuncitshiswe ixesha apho iziko likarhulumente kufuneka livakalise izimvo zalo ngesicelo sokusetyenziswa komhlaba ukusuka kwiintsuku ezingama60 ukuya kwiintsuku ezingama30 zokucela izimvo. Olunye ulungiso lwenziwa

ukuxhobisa ugunyaziwe onobuchule ukuba, apho kufanelekileyo, andise elo xesha kangangexesha elifanelekileyo.

- 3.14. **Isolotya 17** lenza izilungiso kwicandelo 49 loMthetho ngokususa imfuneko ekwicandelo 49(b) yokuba umasipala athathele ingqalelo izicwangciso zesakhiwo esisebenzayo xa esenza isigqibo ngesicelo sokusetyenziswa komhlaba.
- 3.15. **Isolotya 18** lenza izilungiso kwicandelo 50 loMthetho ngokuthi lithintele imfuneko yokuba umasipala azise abantu ngaphandle komenzi-sicelo ngesigqibo esikhankanywe kwiSahluko IV soMthetho kwabo bangenise izimvo zabo ngesicelo. Esinye isihlomelo esicetywayo sibonelela ngemfuneko yokuba isaziso sibonelele izizathu zesigqibo, sazise umntu owamkelayo ngelungelo lokubhena kwisigqibo ngexesha elibekiweyo kunye nezona nkukacha zincinci zifunekayo kwisibheno, nokuba isigqibo sipapashwe kwisibheno eso. Iwebhusayithi kamasipala kangangeentsuku ezingama90, ixelela uluntu olunamalungelo achaphazeleka ngokwezinto eziphathekayo kunye nokuchatshazelwa kakubi sisigqibo sesigqibo, izizathu zesigqibo kunye nelungelo lokubhena. Oku kuya kunciphisa umthwalo wolawulo koomasipala, kwaye kuya kunciphisa inkqubo yesibheno, njengoko kungasayi kubakho mfuneko yokuba kucelwe ngokwahlukeneyo izizathu zesigqibo.
- 3.16. **Isolotya 19** lifakela icandelwana elitsha kwicandelo 51 loMthetho, ukuze lichaze ukuba akukho nto kwicandelo 51 inqanda umntu ukuba aqalise inkqubo yokuhlolwa kwenkundla njengoko kuxelwe kwicandelo 6 lomthetho iPAJA.
- 3.17. **Isolotya 20** lenza izilungiso kwicandelo 54 loMthetho ngokususa imfuneko yokuba isigqibo ngesicelo sophuhliso lomhlaba sipapashwe kumaphephandaba nakwi*Gazethi yePhondo*, lifake endaweni yalo imfuneko yokuba eso sigqibo sipapashwe kwiwebhusayithi yeSebe kangangeentsuku ezingama21, apho isaziso kufuneka iSebe lazise uluntu olumalungelo abo achatshazelwa ngokubonakalayo nangokungalunganga sisigqibo, ngesigqibo kunye nezizathu zesigqibo kunye nelungelo lokubhena. Olunye ulungiso olucetywayo lunika iNtloko yeSebe igunya lokuqonda ukuba ngaba isazise isigqibo nolwazi olukhankanywe ngasentla ngenye okanye ngeendlela ezininzi, kuquka kumaphephandaba, nangeendlela zonxibelelwano ngokusebenzisa imithombo yeendaba, kwaye ikwamisela ukuba umenzisicelo naye nabani na ofake izimvo zakhe kwisicelo kufuneka aziswe ngezizathu zeso sigqibo, ngokunjalo nangelungelo lakhe lokubhena, apho kufanelekileyo.
- 3.18. **Isolotya 21** lenza izilungiso kwicandelo 55 loMthetho ngokususa imfuneko ekwicandelo 55(c)(ii) yokuba iNtloko yeSebe kufuneka ithathele ingqalelo izicwangciso zesakhiwo esisebenzayo xa iqwalasela naxa isenza isigqibo ngesicelo sokusetyenziswa komhlaba.
- 3.19. **Isolotya 22** lenza isilungiso kwicandelo 60(5) ukuze linike uMphathiswa wePhondo ithuba lokwazisa iKhabhinethi yePhondo ngesigqibo, kwimeko engxamisekileyo, sokugunyazisa umasipala ukuba aphambuke kwimiqathango yoMthetho okanye kwimeko yegunya, msinyane kangangoko kunokwenzeka (kunokuba kungadlulanga iiyure ezingama48) emva kokuba kuthatyathwe isigqibo sokunikezela ngokuphambuka. Olunye utshintsho luthatha indawo yesibophelelo sokungenisa ingxelo malunga nesigqibo kwiKhabhinethi yePhondo kwisithuba seentsuku ezili14, kunye nelungelo lokungenisa ingxelo ukuba uMphathiswa wePhondo ucinga ukuba kuyimfuneko kwiimeko, ngokukhawuleza kangangoko kunokwenzeka. Ezi zilungiso ziyafuneka njengoko ukuphunyezwa kwala masolotya akulo Mthetho kubonise ukuba, kwiimeko ezingxamisekileyo, iimfuno zinzima ngokungeyomfuneko kwaye azinakwenzeka, ngelixa iKhabhinethi yePhondo iya kuba nako ukubeka iliso ngokwaneleyo ukuba iimfuno zithotywe ukuya kumgangatho ochatshazelwe kwizilungiso.

- 3.20. **Isolotya 23** lenza izilungiso kwicandelo 61 loMthetho ukucacisa ukuba umthetho ekubhekiselwe kuwo olawula ulwahlulwahlulwana komhlaba umalunga nezicelo zolwahlulwahlulwana komhlaba wezolimo, hayi ukudityaniswa komhlaba. Kwenziwa esinye isilungiso ukuze kususwe ubhekiselelo kwicandelo 43 loMthetho, njengoko uMthetho oSayilwayo woLungiso uphakamisa ukuba eli candelo malitshitshiswe.
- 3.21. **Isolotya 25** lenza izilungiso kwicandelo 67 loMthetho ukuze kususwe imfuneko yokuba umasipala okanye iNtloko yeSebe isebenzise kuphela inkqubo emiselwe phantsi komnye umthetho ukwenza isigqibo ngesicelo esiphantsi koMthetho ukuba loo nkqubo ithobela ngokungqongqo iimfuno zoMthetho. Endaweni yoko, imfuno yaziswa ukuba inkqubo komnye umthetho ingasetyenziswa kuphela ukuba ilungile kwaye ifanelekile ukwenza oko, emva kokuthathela ingqalelo phakathi kwezinye izinto iinjongo zoMthetho. Esi silungiso siza kwenza lula umthwalo olawulayo wokusetyenzwa kwezicelo kwaye sikhuthaze ukudityaniswa kweenkqubo phantsi kwemithetho emininzi.
- 3.22. **Isolotya 26** lenza isilungiso sobuchule kwicandelo 68(1)(c) loMthetho ngokususa ibinzana elithi “imigaqo okanye” kwicandelo.
- 3.23. **Isolotya 27** lenza izilungiso kulo Mthetho ngokwenza izilungiso kulungiselelo lwamacandelo ukuze lihambelane nezilungiso kulo Mthetho.
- 3.24. **Isolotya 28** libonelela ngexesha languqu apho isicelo sokusetyenziswa komhlaba okanye isicelo sophuhliso lomhlaba esenziwe phambi kokuba kuwiswe uMthetho oSayilwayo woLungiso, kwaye uqale ngokungekagqityezelwa phambi kokuba kuqaliswe, kufuneka kuqukunjelwe ngokungathi uMthetho oSayilwayo woLungiso awumiselwanga waze waqaliswa.
- 3.25. **Isolotya 29** libonelela ngesihloko esifutshane kunye nokuqalisa koMthetho woLungiso.

4. UTHETHWANO

ISebe leNkulumbuso: IiNkonzo zoMthetho

UQulunqo loMthetho oSayilwayo woLungiso loCwanciso loSetyenziso loMhlaba weNtshona Koloni ka2023 wapapashelwa ukufumana izimvo zoluntu phantsi kweSaziso sePhondo 110/2023 kwi*Gazethi yePhondo* 8848 yomhla we9 kweyeNkanga 2023.

5. UCHAPHAZELEKO LWABASEBENZI

Alukho

6. UCHAPHAZELEKO LWEZIMALI

Alukho

7. UBUCHULE BOMTHETHO

UMphathiswa wePhondo ojongene noorhulumente noRhulumente woMmandla, iMicimbi yezokusiNgqongileyo noCwanciso loPhuhliso wanelisekile ukuba izibonelelo zoMthetho oSayilwayo woLungiso ziphantsi kobuchule bomthetho wePhondo.

