

Eastern Cape Provincial Spatial Planning and Land Use Management Petition

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Attention: Mrs. Nqaka Mosehana

Head of Department

Eastern Cape provincial Department of Cooperative Governance and Traditional Affairs

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Noting that the Eastern Cape provincial Department of Department of Cooperative Governance and Traditional Affairs (EC-CoGTA) is in the process of developing new policy and legislation on Spatial Planning and Land Use Management (SPLUM).

We the undersigned Civil Society Organisations call on the EC-CoGTA to incorporate the following recommendations into future SPLUM policy and legislation in the Eastern Cape:

1. Involve the public throughout the process of development, implementation and continual review of provincial SPLUM policy and legislation. In particular:
 - a. Establish a provincial SPLUM advisory committee that includes representatives of civil society. Such a committee needs to a) oversee the development of provincial SPLUM policy and legislation, b) monitor that the policy and legislation is being implemented, c) be kept informed of and monitor the performance of local government in reporting on SPLUM implementation, and d) regularly evaluate the policy and legislation and advise on possible improvements over time.
 - b. Undertake a comprehensive publicity campaign, prior to the drafting of a White Paper for the new SPLUM legislation, to ensure that civil society and members of the public are in a position to prepare for participating in the white paper and legislation development process. This includes providing an opportunity for the public to familiarise themselves with the content of the provincial SPLUM Green Paper and nominate representatives to sit on any SPLUM advisory committee or any other structures established as part of the SPLUM development and implementation process.
 - c. Facilitate local workshops and awareness raising events on SPLUMA in local areas, municipalities, in districts and regions as well as with different sectors.
 - d. Develop summaries of national, provincial and local legislation and translate these summaries into languages that are most commonly used in the various parts of the province (being mainly isiXhosa, English and Afrikaans).
2. Improve community participation in the development of Spatial Development Framework (SDF) plans. In particular:
 - a. As part of the municipal SDF, require municipalities to customise spatial principles that respond directly to the development environment in the municipality and ensure that the Municipal Planning Tribunal (MPT) is sensitised on the implication of these principles when informing decision making on proposed land use changes. Although these principles are required to relate to broader national Spatial Planning and Land Use Management Act (SPLUMA) principles, they also need to reflect on and be aligned with local needs and aspirations. These principles, along with municipal SDF's and Local SDFs need to be developed in a consultative manner.
 - b. Provide more detailed guidance on how municipalities must establish and develop incremental upgrading or settlement areas (as per section 21(k) of SPLUMA).
 - c. Explain in more detail how municipalities can develop local SDF's, clarify the relationship between local SDF's and municipal SDF's and how the proposals of such local SDF's can

- be integrated with day to day decision-making in local communities in terms of prevailing practices.
- d. Require municipalities to make use of community based planning methodologies, such as, but not limited to Asset Based Community Development, when developing local SDF's.
3. Develop more detailed guidelines for how to establish and maintain Land Use Schemes, especially in communal areas. In particular:
 - a. Guide municipalities on the use of community mapping techniques when determining existing land use rights and developing and updating their Land Use Schemes (especially in rural and communal areas).
 - b. Require municipalities to develop appropriate land use regulations for managing land use in communal areas, based on the principle of incremental upgrading of informal areas.
 4. Include people with experience in the entire spectrum of development, both urban and rural, on Municipal Planning Tribunals. In particular:
 - a. Tribunal members need to understand both the land use and social (customary) context within which development, consultation and decision making takes place.
 - b. Require municipal planning tribunal members that are responsible for areas that include communal land to be familiar with the development context in communal areas.
 5. Make it more affordable and easier for ordinary members of the public to appeal land use decisions. In particular:
 - a. Review the appeal process in SPLUMA in order to find ways to make this process more affordable and accountable, as opposed to leaving the only recourse as the courts (which is time consuming and expensive).
 - b. Provide for the establishment of a well capacitated and independent joint appeal structure, set up by participating municipalities, to take responsibility for dealing with appeals to the decisions of designated officers and municipal planning tribunals.
 6. Clarify and recognise the role of government, traditional leaders, other community leadership structures, and other community stakeholders in the SPLUM process. In particular:
 - a. Recognise Communal Property Associations, residents and homeowners associations, and other representative structures in provincial legislation.
 - b. Require municipalities to allow for these other structures to participate (through consultation or commenting) in land development applications prior to making final land use decisions.
 - c. Establish clear conflict avoidance/ resolution mechanisms, that include, for example, pre-consultation, negotiation, mediation and arbitration, amongst others, when there is potential for disputes around development decisions.

We commend the excellent research work that has been undertaken by the EC-COGTA culminating in the production of draft 'The Green Paper: Spatial Planning and Land Use management in the Eastern Cape' (January 2016). We request the EC-CoGTA to take the issues and the recommendations from this Green Paper into account when developing provincial SPLUM policy and legislation.

In particular we want to see the principle of 'free prior and informed consent' of communities in decision making processes forming the backbone of any provincial policy and legislation.

We request the EC-CoGTA to inform us in writing by 12 August 2016 as to how they will be responding to this petition. Further correspondence can be addressed to:

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Organisations that have endorsed this petition reserve the right to make their own independent recommendations and petitions in relation to provincial SPLUM.

1. Tholulwazi Development Organisation
2. Public Service Accountability Monitor (PSAM),
3. CALUSA
4. Matatiele Advice Centre
5. Duncan Village Youth Developmental Initiative (DVYDI)
6. Private Eye Community Watch Project
7. HIVOS
8. Catholic Development Centre
9. Youth Potential South Africa (YOUPSA)
10. Somila Community Development Association
11. Imbasa Community Services
12. Phuhlisani
13. Siyandiswa Family Co-operation
14. Buffalo City Civic Association
15. Eastern Cape NGO Coalition (ECNGOC)
16. Afesis-corplan

cc. Dr. Tony Williams, The Director of Spatial Planning, Eastern Cape provincial Department of Cooperative Governance and Traditional Affairs.

cc MEC Xasa, the MEC for Cooperative Governance and Traditional Affairs in the Eastern Cape