

Mrs. Ngaka Mosehana
Head of Department
Eastern Cape Provincial Department of Cooperative Government and Traditional Affairs
Tyamzashe Building, Phalo Avenue, Civic Square
Bhisho, Eastern Cape

4 May 2017

Dear Mrs N Mosehana

FOLLOW UP: Petition on recommendations for provincial Spatial Planning and Land Use Management (SPLUM): - our reference number EC-SPLUM-no.01-2016

Could you please inform us on what actions are being taken to respond to the SPLUM petition (Reference number EC-SPLUM-no.01-2016) that we submitted to your department on 21 July 2016? Attached for your ease of reference please find a copy of the original petition and associated covering letter.

Note that the only formal response we received from you department was in an e-mail from Unathi Mpafa dated 4 August 2016, in which she informed us that "... the petition was received and sent to legal services." Despite follow up e-mails on 1 November 2016 and 28 March 2017 enquiring of progress on this SPLUM petition, we have received no update. Could you please provide us with the contact details of the person dealing with our request in your legal services department so we can contact them directly?

Could you also please update us on the status of the draft GREEN PAPER: SPATIAL PLANNING & LAND USE MANAGEMENT IN THE EASTERN CAPE (January 2016) that was developed by your department? As requested in our covering letter of 21 July 2016, we call on your department to facilitate a community participation process to develop provincial SPLUM legislation for the Eastern Cape Province.

Please address any correspondence to:

- Ronald Eglin
- specialist: sustainable settlements
- phone: 043 7433830
- e-mail: ronald@afesis.org.za

Yours Sincerely



Ronald Eglin
Specialist: Sustainable Settlements

cc Dr Tony Williams (Director of Planning) – per e-mail

cc MEC Xasa (MEC for Cooperative Governance and Traditional Affairs) – per e-mail

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Mrs. Nqaka Mosehana
Head of Department
Eastern Cape Provincial Department of Cooperative Government and Traditional Affairs
Tyamzashe Building
Phalo Avenue
Civic Square
Bhisho
Eastern Cape

21 July 2016

Dear Mrs N Mosehana

**Petition on recommendations for provincial Spatial Planning and Land Use Management: -
our reference number EC-SPLUM-no.01-2016**

On behalf of the following organisations, we call on the Eastern Cape Provincial Department of Cooperative Government and Traditional Affairs (EC-CoGTA) to incorporate the recommendations found in the attached petition (our reference number EC-SPLUM-no.01-2016) into provincial spatial planning and land use management (SPLUM) policy and legislation.

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. Eastern Cape NGO Coalition (ECNGOC)
10. Youth Potential South Africa (YOUPSA)
11. Somila Community Development Association
12. Imbasa Community Services
13. Phuhlisani
14. Siyandiswa Family Co-operation
15. Buffalo City Civic Association
16. Afesis-corplan

We further call on EC-CoGTA to formally adopt the draft GREEN PAPER: SPATIAL PLANNING & LAND USE MANAGEMENT IN THE EASTERN CAPE (January 2016) that has been developed by your department. We call on your department to facilitate a community participation process, allowing the above mentioned, and other organisations, to engage your department in the development of a white paper and provincial legislation dealing with SPLUM in the Eastern Cape.

As explained in the attached petition, please inform us, via Ronald Eglin at Afesis-corplan (ronald@afesis.org.za), on what actions you are taking to incorporate our recommendations into provincial policy and legislation.

We are more than willing to meet with you and your department to discuss the contents of this petition in more detail.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'R Eglin', with a stylized flourish at the end.

Ronald Eglin
Specialist: Sustainable Settlements

cc Dr Tony Williams (Director of Planning) – per e-mail

cc MEC Xasa (MEC for Cooperative Governance and Traditional Affairs) – per e-mail

Eastern Cape Provincial Spatial Planning and Land Use Management Petition

reference number EC-SPLUM-no.01-2016

21 July 2016

Attention: Mrs. Nqaka Mosehana

Head of Department

Eastern Cape provincial Department of Cooperative Governance and Traditional Affairs

e-mail address: ngaka.mosehana@eccogta.gov.za

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:

Ronald Eglin
9 Wynne Street, Southerwood, East London
e-mail: ronald@afesis.org.za,
phone: 043 7433830,
fax: 043 7432200

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
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9. Youth Potential South Africa (YOUPSA)
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11. Imbasa Community Services
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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