



Wes-Kaapse Provinsiale Parlement Western Cape Provincial Parliament IPalamente yePhondo leNtshona Koloni

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Report of the Standing Committee on Agriculture, Environmental Affairs and Development Planning on its oversight visit to the West Coast from 20 to 22 September 2022, as follows:

Delegation

The delegation consisted of the following members:

Van Der Westhuizen, AP (DA: Chairperson and leader of the delegation)
America, D (DA)
August, SN (GOOD)
Mackenzie, RD (DA)
Marais, PJ (FF Plus)
Marran, P (ANC)

1. Introduction and background

Section 114 (2)(b)(i) of the Constitution of the Republic of South Africa mandates provincial legislatures to provide for mechanisms to maintain oversight over the Provincial Executive Authority in the province.

The oversight visit was a result of numerous discussions in committee meetings where concerns were raised in relation to mining activities along the West Coast and the potential environmental damage caused by these mining activities. The committee was concerned about the rehabilitation of the areas that have already been mined. The Committee wanted to see for themselves whether the mining activities were adhering to the conditions, and whether compliance with the conditions was monitored. The Committee then resolved to conduct such a visit.

While the Committee acknowledged that various of the issues mentioned were national competencies, it believed that the Western Cape, in concurrence with other spheres of government, had a role to play in the protection, conservation and rehabilitation of its resources. For this reason, an invitation was extended to the National Department of Mineral Resources and Energy (DMRE) to participate in the oversight visit alongside CapeNature, the Provincial Department of Environmental Affairs and Development Planning and the Matzikama Municipality. Unfortunately, The National Department did not respond to the Committee's invitation.

2. Summary of Visit

The oversight visit commenced on 20 September 2022 with a briefing by the Department of Environmental Affairs and Development Planning and CapeNature on the role of the Provincial Department and Entity as well as the role of the DMRE and the Matzikama Municipality in land use planning applications related to mines, prospecting and mining

applications, unlawful activities and law enforcement operations. This meeting was scheduled for the Committee to gain an understanding of the roles of the various stakeholders involved with mining prospecting and mining applications prior to the start of its engagements with the Municipality.

The Committee then met with the Matzikama Municipality on 21 September 2022 in Vredendal to discuss the Municipality's responsibility in terms of mining for minerals, the conditions for rehabilitating areas where mining has taken place as well as the consequences for mines that do not adhere to the conditions for rehabilitation. The Committee then proceeded to Tronox Namakwa Sands in Brand se Baai where it received an overview of the mining activities and rehabilitation and also visited prospecting and mining activity sites.

CapeNature provided a briefing on 22 September 2022 in Vanryhnsdorp on the impact of mining on biodiversity in relation to the Knersvlakte Nature Reserve, challenges experienced (particularly the poaching of succulents and other unlawful activities) as well as the successes and failures of law enforcement in this regard. The Programme continued with a visit to the Nature Reserve which was approximately 20km north of Vanryhnsdorp.

A visit then took place to Vaalkrans in Ebenhaeser where meetings with members as well as the Chairperson of the Communal Property Association (CPA) on agricultural development in the area took place. This was followed by a visit to the Olifants River Estuary in Papendorp where CapeNature explained the estuary's conservation importance and the impact of prospecting for minerals, particularly in relation to the Papendorp community.

This report highlights the Committee's findings and recommendations stemming from the visits.

3. Tuesday 20 September 2022: Briefing by the Department of Environmental Affairs and Development Planning and CapeNature

3.1 Key issues discussed

3.1.1 A Mining Task Team was established by MINTECH Working Group 7 (Oceans and Coasts) as a result of the escalation of concern of increased mining activity along the West Coast. The Mining Task Team, led by the South African National Biodiversity Institute (SANBI), comprised members from all coastal provinces, the Department of Forestry, Fisheries and the Environment (DFFE), South Africa's Council for Scientific and Industrial Research, the Department of Public Works and Infrastructure and CapeNature. The Task Team was expected to develop an environmental management framework which needed to balance socio-economic opportunities, not just in mining, but holistically. The problem was that the National Department of Mineral Resources and Energy (DMRE) was not engaged. The function of integrated planning resides with the provincial Department of Environmental Affairs and Development Planning, who worked closely with the Matzikama Municipality when mining and prospecting applications were received.

3.1.2 The impact of mining in the West Coast coastal zone included the proliferation of access roads, the narrowing of coastal pinch points, the severe erosion of gullies and ineffective rehabilitation. Short term measures to lessen the impact of mining could possibly include the identification of areas which should be protected from mining, by excluding them from prospecting and mining applications.

3.1.3 The development of mineral and petroleum resources was not managed in an orderly and ecologically sustainable manner in line with the objectives of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) (MPRDA). This presented a significant risk to the Western Cape's long-term ecological sustainability. The cumulative environmental impacts of the current and proposed exploration and mining rights, activities, and the future likely uptake of rights, as well as the significant number of known applications currently in process, have not been assessed.

4. Wednesday 21 September 2022: Briefing by the Matzikama Municipality and Visit to Tronox Namakwa Sands

4.1 Matzikama Municipality

4.1.1 Key issues discussed

4.1.1.1 Multiple exploration, prospecting and mining applications were received by the Municipality on a regular basis. From August 2021, 60 new applications were received for comment from an environment and land use perspective. There was no specialist study conducted on the overall cumulative impact to give an indication of the activities in the Matzikama Area. It was unclear to the Committee what the impact will be on the environment and how job creation and environmental protection will be balanced should the 60 new applications be approved.

4.1.1.2 Communication and the extension of information between the DMRE and the Municipality were lacking in terms of the relevant prospecting and mining right applications relating to the issuing of licences, the environmental authorisations granted, rejected or in process, the closure certificates as well as proof that successful rehabilitation on these closed mines have been done. Because of the above-mentioned information not being available, the cumulative impact of all mining and prospecting activities was currently unknown and therefore cumulative impacts could not be monitored, evaluated or managed. The DFFE is the custodian of coastal property and must comment on all mining applications. This was not happening. Decisions relating to the prospecting and mining applications were made on an ad-hoc basis by the DMRE and not on a strategic level where the cumulative impacts should be considered. The DMRE has not nominated a representative to serve on the Mining Task Team.

4.1.1.3 Although the Western Cape Government and the Matzikama Municipality have been able to influence decision making by the DMRE in respect of applications for mining licenses or permits, this should not be a deterrent from continuing to provide comment, object where necessary and to ask the right questions. Efforts in this regard should be increased.

4.1.1.4 The Committee expressed concern that the Municipality did not have a geographic information mapping system which meant that they were unable to monitor and verify if stipulated conditions were met. The human capacity to comment on all the applications and to follow up on conditions set out in mining and prospecting applications was lacking within the Municipality.

4.1.1.5 As a result of the afore-mentioned capacity challenge within the environmental unit within the Municipality, the Committee was pleased to be informed that CapeNature had engaged

with an external funder for funding for the position of an Environmental Scientist. An announcement was made that the funder was willing to provide the funding for three years (salary as well as operational funding) on the condition that the post must be absorbed by the Municipality after the three years have lapsed.

4.2 Tronox Namakwa Sands

4.2.1 Key issues discussed

4.2.1.1 The open-pit mine and concentration plants were situated at Brand-se-Baai, 385 km north of Cape Town. Here the ore was mined and processed at the primary concentration plants to produce a mineral concentrate. Heavy minerals were beneficiated and mined to produce products that were used as feedstock in a wide range of applications including pigments, metals, ceramics, and foundries. Further processing was done at the secondary concentration plant to yield concentrates that were transported 60km to the Mineral Separation Plant where the minerals in the streams are separated to produce zircon, rutile and ilmenite. Rail trucks were used to transport the products 270km to the smelter at Saldanha Bay where the ilmenite was processed in furnaces to produce titanium dioxide slag and pig iron. The zircon and rutile were stored on site for export.

4.2.1.2 In terms of reporting, Tronox strived to improve its reporting to stakeholders to ensure transparency in its efforts to maintain safe, reliable and responsible facilities. Tronox has added additional disclosures on climate related risks in accordance with the Taskforce on Climate-Related Financial Disclosures and have aligned their reporting to the Sustainability Accounting Standards Board.

4.2.1.3 Tronox Mineral Sands employs about 3 000 people. The sustainability team have analysed the environmental impacts of the mining and manufacturing operations focused on long-term sustainability in the areas which were mined as well as the rehabilitation of the land once mining operations have been completed.

4.3 Recommendations

4.3.1 The Committee Recommended that the:

4.3.1.1 Provincial Minister of Local Government, Environmental Affairs and Development Planning address at MINTECH the lack of cooperation between the three spheres of government when it comes to mining applications, including the environmental aspects of such mines and that the Mining Task Team works towards greater cooperation and cohesion;

4.3.1.2 Relevant representative in the National Council of Provinces advocates with the Minister of Forestry, Fisheries and the Environment for a future Nature Reserve in order to preserve some of the unique natural habitats within the Matzikama region that is under threat of potential mining.;

4.3.1.3 Relevant representative in the National Council of Provinces be requested to lobby the relevant Minister(s) to seriously consider the views, proposed conditions and objections from the Department of Environmental Affairs and Development Planning and the Matzikama Municipality to ensure that mines are not approved in sensitive areas; and where approvals are granted, that appropriate conditions are imposed that must then be monitored and transgressions acted against; and the

- 4.3.1.4 Western Cape Government, through the functioning of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), when considering applications, that its efforts should be focused to ensure mines are not impacting on sensitive environments or vulnerable communities.

4.4 Resolutions

- 4.4.1 The Committee RESOLVED that it would:

- 4.4.1.1 Invite the Minister of Mineral Resources and Energy and the relevant officials to brief it on mining operations along the West Coast;

- 4.4.1.2 Confer with the Chairperson of the relevant Portfolio Committee in the National Assembly and the representatives in the National Council of Provinces responsible for Mineral Resources, to determine who is representing the DMRE on the Task Team; when that person has been appointed; should the person not yet been appointed, when that person will be appointed; the strategic approach to the decision-making along the West Coast as a result of the increase in mining applications; the absence of an integrated geographic information mapping system of existing prospecting and mineral rights, applications and activities, against which new applications could be considered; as well as the percentage of mines that submit their annual financial reports and comply with the requirements to make adequate provision for rehabilitation in the future in the Western Cape;

- 4.4.1.3 Confer with the Provincial Minister of Local Government, Environmental Affairs and Development Planning, requesting that the Department enhance its efforts to ensure that identified sensitive areas such as agricultural and irrigation areas, sensitive biodiversity areas and areas along the coast and estuaries are included in their Spatial Development Frameworks, which could then inform decision-making more effectively to bring the balance in approach that is required; and

- 4.4.1.4 Confer with the Standing Committee on Local Government to attend to the lack of capacity of rural municipalities when it comes to commenting on prospecting and mining applications and related activities.

4.5 Request for information

The Committee REQUESTED that the Department of Environmental Affairs and Development Planning provides it with the mandate of the Mining Task Team as well as the work of the Task Team to date.

5. Thursday 22 September 2022: Knersvlakte Nature Reserve; Ebenhaeser Communal Property Association and Olifants River Estuary

5.1 Knersvlakte Nature Reserve

5.1.1 Key issues discussed

5.1.1.1 Knersvlakte Nature Reserve (proclaimed in September 2014) was situated on the West Coast between Klawer in the Western Cape and Kliprand in the Northern Cape. The Reserve covered some 85 500 hectares and was home to a variety of dwarf succulent species.

5.1.1.2 Prominent threats to the Reserve included the lack of available water for animals, climate change, inappropriate infrastructure development, protected area fragmentation, mining and prospecting, invasive alien plants, poaching and historical farm practices.

5.1.1.3 As the environment transformed in the Knersvlakte, various biodiversity crime actions have increased. Due to the varied rainfall over the last few decades, numerous species have been observed less, or more, depending on the phenology of the plants coupled with the timing of the rainfall. This to some extent impacted on the type of species targeted as part of flora biodiversity crime. Biodiversity crime targets have shifted to specialised flora species.

5.1.1.4 Only flora related biodiversity crime cases within the Matzikama Landscape Unit have been reported since 2018, indicating a shift in the end user's wants from reptiles and insects to succulent and bulbous plants. This could potentially be due to influences found via social media or the emphasis on the uniqueness of the succulent plants in the media.

5.1.1.5 The Committee was pleased to be informed that CapeNature had engaged in information sharing sessions with Law Enforcement Officers in the area to better equip the officers to identify the various types and species of succulents should it be in the possession of poachers.

5.2 Ebenhaezer Communal Property Association (CPA)

5.2.1 Key issues discussed

5.2.1.1 CPA's are landholding institutions established under the Communal Property Associations Act, 1996 (Act 28 of 1996) (the CPA Act). Beneficiaries of the land reform, restitution and redistribution programmes who want to acquire, hold and manage land as a group can establish legal entities to do so. The CPA Act provides for government registration of CPAs.

5.2.1.2 The area of the Ebenhaezer Land Restitution Claim comprised of prime agricultural land, including numerous vineyards, and some state-owned land.

5.2.1.3 Submitted in 1996, it was one of the biggest land restitution applications in the Western Cape and was approved in 1998. This agreement confirmed the restitution of most of the land lost by the Ebenhaeser community in 1926 and included substantial government funding to help the community manage the restored farms.

5.2.1.4 The Ebenhaeser CPA was one of three organisations established during the negotiations. The second was the Ebenhaeser Development Trust and the third was Ebenhaeser Agri (Pty) Ltd. The Ebenhaeser CPA was established in 2014 as the formal representative of all the land

claimants, the Trust was established in 2015 with broader responsibility as the operational arm of the community's affairs and to address its developmental needs; and the Company was established in 2021 to undertake the community's commercial farming operations.

- 5.2.1.5 The community received the first seven farms in 2015. At that time there were 44 owners that owned the farms of which 22 were willing sellers and 22 were unwilling sellers. The unwilling sellers eventually relinquished the farms to the community and was compensated by the government. The CPA was currently managing 19 farms. The community wanted 100% of the land but 87% of that land was restituted and the difference contributed to development matters and compensation to the community. The community received an implementation plan to assist with farming and the way in which claims must be settled.
- 5.2.1.6 Challenges included job scarcity and poverty. It was essential therefore for the farms to make a profit to address these issues. Another challenge was that the canal needed to be replaced and lengthened as it had exceeded its lifespan. The water quotas were significantly cut during the drought. Water for irrigation must be purchased from the Lower Olifants River Water Users Association (LORWUA).
- 5.2.1.7 The Committee was pleased to be informed that the project enjoyed the full support of the Western Cape Department of Agriculture, and that assistance was often just a phone call away.

5.3 Olifants River Estuary

5.3.1 Key issues discussed

- 5.3.1.1 The Olifants River Estuary was one of the largest estuaries in South Africa and the least developed of all permanently open estuaries.
- 5.3.1.2 Threats to the estuary included illegal dwellings constructed along the coastal area, increased coastal development in sensitive coastal habitats, illegal or uncontrolled access to the area resulting in a myriad of roads in the marsh zone and driving on the beach and foredunes and uncontrolled access to the area resulting in camping in the marsh zone.
- 5.3.1.3 The declaration of the Olifants River Estuary Protected Area will take place in two phases. Phase 1 includes the declaration of the identified state-owned properties that must be transferred from the National Department of Public Works and Infrastructure to the Provincial Department of Transport and Public Works; and Phase 2 is the stewardship component that will focus on neighboring private owned properties. The protected area will be co-managed by agreement between CapeNature, the community and the Matzikama Municipality who will work together to source funding and projects, manage tourism and small businesses opportunities.
- 5.3.1.4 Benefits of conservation of the estuary included a secure sanctuary for flora and fauna, protection of the culture and livelihoods of the local Ebenhaeser and Papendorp communities by allowing sustainable fishing, tourism opportunities including guided hikes and traditional boat rides, the upgrading of accommodation and tourism facilities and the associated job creation.

5.4 Resolution

The Committee Resolved that it would confer with the Standing Committee on Transport and Public Works to consider following up with the Department of Transport and Public Works on the road upgrades in the Strandfontein area, particularly the road between Lamberts Bay and Strandfontein as well as the state of the road in the Knersvlakte Nature Reserve.

5.5 Requests for information

5.1. The Committee Requested that the:

5.1.1 Department of Agriculture provides it with a report on the support provided to the Ebenhaeser CPA and community; the registration of a service provider for drought relief to farmers farming with lucerne; as well as the cut in the water quota for the Lower Olifants River Water Association (LORWA) in Ebenhaeser;

5.1.2 Matzikama Municipality provides it with its housing plan for the waiting list of Ebenhaeser as well as its future plans for housing;

5.1.3 National Minister of Forestry, Fisheries and the Environment provides it with information as to why mining was approved at the Olifants River Estuary despite it being declared a critical biodiversity area and CapeNature objecting to the application; and

5.1.4 Minister of Local Government, Environmental Affairs and Development Planning provides it with any legislative steps that could possibly be taken to strengthen the voice of province in commenting on mining and prospecting applications.

6. Acknowledgements

The Committee expressed its appreciation to the representatives of Tronox Namakwa Sands, the officials from the Department of Environmental Affairs and Development Planning, CapeNature and the Matzikama Municipality for accompanying the Committee to the various sites and for informative engagements.

A special word of thanks to Mr Elbie Cloete, Landscape Manager for CapeNature, for coordinating the visits and for his extensive knowledge of the area which assisted the Committee immensely.



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DATE: 22 November 2022