



SUBMISSIONS ON THE DRAFT NKANGALA AIR QUALITY MANAGEMENT PLAN, APRIL 2015

Introduction

1. Section 15 of the National Environmental Management: Air Quality Act¹ (AQA) and paragraph 5.4.6.7 of the National Framework for Air Quality Management² require each municipality to include an air quality management plan (AQMP) in its integrated development plan (IDP) as contemplated in Chapter 5 of the Municipal Systems Act.³
2. Nkangala District Municipality (NDM), which is in the Highveld Priority Area (HPA), is in the process of developing this AQMP and invited comments from stakeholders on the first draft of the NDM AQMP.

Overview

3. Given that this is a first draft of the AQMP, our submissions focus on highlighting gaps in the document as it currently stands and propose some amendments/changes. We reiterate that these submissions are only made on a preliminary basis and may be supplemented and/or amended once we have had an opportunity to receive feedback from technical experts and instructions from our clients.
4. As pointed out above, the AQA requires each municipality to integrate its AQMP into the IDP. It is crucial to ensure that the AQMP is effectively funded. Our clients would like clarification on where the NDM is in their IDP cycle; when the draft AQMP will be available for comment; when the NDM AQMP will be included in the IDP; and when it will be reviewed.

Air Pollution and Health in the NDM

5. One of the objectives of the AQA is to give effect to section 24(b) of the Constitution in order to enhance the quality of ambient air for the sake of ensuring an environment that is not harmful to health or well-being of the people. The Framework therefore recognises that air quality management and planning should take into account the impacts of air quality on human health and the interventions developed should be aimed primarily at minimising the effects of air pollution on the health of the people.⁴
6. Paragraph 3.6⁵ in the draft AQMP highlights broadly the health risk estimates that are directly relevant to the HPA, and we note that there has been no discussion on the effects of outdoor combustion and indoor pollution

¹ Act 39 of 2004

² GG 37078 of 29 November 2013

³ Act 32 of 2000

⁴ The 2012 National Framework for Air Quality Management of 29 November 2013 at paragraph 5.4.6.10

⁵ DraftV1 NDM AQMP of 20 March 2015 p29

on population morbidity - the health impacts on those who remain alive and are affected by air pollution.⁶ Our clients are of the opinion that this should be included in this paragraph and in the estimates of the overall burden of disease.

Air Quality Management Capacity in the NDM

7. This section of the report is very important as it highlights the critical shortage of technical and financial resources allocated to AQM functions in NDM.⁷ It is clear from Table 3-11⁸ that there is a significant shortage of skilled personnel to effectively undertake air quality functions in the municipality. Therefore, the first objective of the AQMP should be to fully populate the AQM structure within NDM. Without the requisite technical and financial resources, it will be almost impossible to implement this AQMP and to achieve the overall goals of improving air quality in the NDM and broader HPA.

General Comments

8. In identifying emission sources, the Draft AQMP delves into emission reduction areas - like mining,⁹ transport¹⁰ and agriculture¹¹ - which require collaboration with departments such as Mineral Resources, Transport, and Agriculture Forestry and Fisheries, in order to ensure that the correct processes are followed and properly implemented. This collaboration should be addressed.
9. The proper alignment of the draft AQMP with HPA AQMP goals should be another priority, particularly because the outlined goals and objectives¹² in the NDM draft AQMP are inconsistent and unaligned with the goals of the HPA AQMP. For instance, goal 1 of the HPA AQMP - to be achieved by 2015 - requires that organisational capacity in government is optimised to efficiently maintain, monitor and enforce compliance with ambient air quality standards. Goal 1 of the draft NDM AQMP is exactly the same, only that the date set for the realisation of this goal is 2018. This is counter-intuitive and potentially results in confusion regarding mandates and even a duplication of work already set out by the HPA AQMP. This further compounds the existing financial and technical capacity constraints. Therefore, our clients are of the opinion that the HPA AQMP should be properly and strategically aligned to avoid duplication and a waste of already scarce resources. It is essential that organisational government capacity be urgently optimised. This cannot be delayed until 2018.
10. Our clients point out that Chapter 6 on technology review appears not to add value to the process insofar as it is a textbook application for which there is no application to the AQMP. Hence, an assessment should be conducted on an industry-by-industry basis aimed at assessing the actual versus the desired outcomes and consequently using this information to get the industries to commit to a refurbishment/retrofit schedule to ensure that atmospheric emissions from their facilities are as limited as possible.
11. One of the goals identified in the draft AQMP is the implementation of clean technologies and processes.¹³ An indicator is that the AEL should include clean technology recommendations. In our clients' opinion, clean technologies should be a requirement and not a recommendation.

⁶ A 2014 study by groundWork highlights the disease burden that communities in the HPA are carrying due to pollution from Eskom's electricity generation. The study showed Eskom to be the primary driver of outdoor pollution health risk in the area. There is no doubt that these Eskom emissions combined with emissions from other industries in the HPA, and in NDM in particular, would have dire consequences on the health of those living in the affected area. This study is available here: <http://www.groundwork.org.za/specialreports/groundWork%20The%20Health%20Impact%20of%20Coal%20final%202020%20May%202014.pdf>

⁷ DraftV1 NDM AQMP of 20 March 2015 paragraph 3.8 p36

⁸ DraftV1 NDM AQMP, of 20 March 2015 p36

⁹ Mining emissions reduction goals as stipulated in draftV1 NDM AQMP paragraph 7.1.3 p83

¹⁰ Transport emission reduction goals as stipulated in draftV1 NDM AQMP paragraph 7.1.4 p83

¹¹ Veld burning emission reduction goals in paragraphs at 7.15 p83 and paragraph 7.1.7 in draftV1 NDM AQMP at p84

¹² DraftV1 NDM AQMP at pages 84 - 105

¹³ DraftV1 NDM AQMP 2020, goal 2, objective 9, p99

12. One of the other identified objectives for increasing awareness and knowledge on air quality awareness, is to communicate air quality information with all stakeholders, which will involve, amongst others, that air quality information is easily accessible to all stakeholders.¹⁴ Our client's request that the draft AQMP specifically provides for access to all air quality information including access to: atmospheric emission licences (AELs), compliance/emission reports, external audits, minutes of meetings; and all documents pertaining to the HPA process i.e terms of reference, minutes, presentations, agendas etc. It is important for this information to be made easily accessible to all stakeholders and interested and affected parties as it assists in the monitoring of industries in the municipality. Timous access to documents relating to the HPA is essential to facilitate the smooth running of this process and the eventual realisation of the aim to improve ambient air quality so that it no longer exceeds the ambient air quality standards.

13. Various gaps have been identified in the draft AQMP and these are highlighted below.

Information gaps identified in the draft AQMP

14. Our clients noted that there was no enforcement strategy outlined for the enforcement of the identified goals and emission reduction plans, and nor was there any mention of how monitoring will be done or whether there was a plan to train and designate environmental management inspectors (EMIs) on the NDM AQMP.

15. We noted that there was no ambient monitoring being undertaken in Dr JS Moroka, Thembisile, eMakhzeni and Victor Kanye local municipalities; it is not explained why this was not taking place nor what steps are being taken to address this and how this will affect the baseline assessment.¹⁵

16. Our clients are particularly concerned about the regulation of industrial dust emissions, particularly because the existing National Dust Control Regulations¹⁶ are not effective in ensuring that dust levels are regulated to a level that is not harmful to human health. In terms of the 2020 goal,¹⁷ we note that the draft AQMP states that it aims to equitably reduce industrial emissions to achieve compliance with ambient air quality standards and dust fallout limit values. It is not clear what the term 'equitably' is intended to mean in this context, and this should be clarified. The draft AQMP goes on to identify various objectives to achieve this, including ensuring that fugitive emissions are minimised and emissions from dust generating activities are reduced. We propose that the draft AQMP (this should also be reflected in the by-law¹⁸) implements a much stricter regimen of regulating dust control, which is more aligned with the ambient air quality standards, and aimed at minimising air pollution and the health effects on people.

17. The draft AQMP states that quarterly consultative meetings will be conducted with communities, in order to ensure that a line of communication exists between industry and communities.¹⁹ It is not clear how this process will be run and by whom, and how this is aligned to the HPA implementation processes meetings. It is important that this be clarified to avoid duplication and stakeholder fatigue.

18. It is unclear how NDM plans to incorporate the recommendations and interventions proposed by the status quo report for assessment of the requirements for municipalities and provinces to fully undertake air quality functions conducted in 2014, which is referred to in the draft AQMP.²⁰ Our clients would like to reiterate that capacity

¹⁴ DraftV1 NDM AQMP, 2020 goal 5, objective 1, p106

¹⁵ DraftV1 NDM AQMP, paragraph 3.3 p21

¹⁶ GG36974 of 1 November 2013

¹⁷ DraftV1 NDM AQMP, p93

¹⁸ s11 of the AQA states that: If national or provincial standards have been established in terms of section 9 or 10 (AQA) for any particular substance or mixture of substances, a municipality may not alter any such national or provincial standards except by establishing stricter standards for the municipality or any part of the municipality

¹⁹ DraftV1 NDM AQMP, paragraph 12 p101

²⁰ DraftV1 NDM AQMP, paragraph 3.8 p37

development should be the first priority for the NDM, if the objectives of this draft AQMP are to be achieved. They also propose that: air quality be made a part of the municipal manager or mayor's scorecard; that air quality be made an auditable function; that a budget be set aside to recruit experienced scientists and engineers for AEL processing and air quality management; and for the provision of air quality monitoring and enforcement.

19. The draft AQMP states that, by 2020, air quality in all low income settlements is in full compliance with ambient air quality standards²¹ and talks about promoting the objectives of the strategy in dense low income settlements in the NDM.²² It is not clear whether this strategy has been finalised and whether this will be finalised by the time that the AQMP is finalised. Further, the AQMP talks about coordinating Basa njengo Magogo (BnM) rollout in NDM PM10 "hot spot" settlements. It should be clarified whether BnM has been accepted and adopted as the strategic tool for the reduction of domestic coal burning in dense low income settlements. In this regard, our instructions are that our clients have consistently argued that BnM does not have the desired impact and there is an urgent need for improved housing and clean energy provision.
20. NDM plans to establish a Standing Committee with governance stakeholders to assess and report on progress with the NDM AQMP implementation.²³ This committee has apparently been established and is operational. However, it is not clear whether this is related to the HPA AQMP Implementation Task Team or how it is aligned with the HPA processes. Once again, our clients reiterate that duplication should be avoided as much as possible and resources expended to ensure the proper implementation and enforcement of the emission reduction plans.
21. Paragraph 9.2 of the draft AQMP divides evaluation into two sections, which comprise an internal evaluation of the final AQMP, and on ongoing evaluation, which addresses implementation outcomes.²⁴ It is not clear who will be responsible for the internal and the ongoing evaluations, nor how regularly these will be done. This should be clarified in the next draft of the NDM AQMP.

Conclusion

22. As stated above, the Draft AQMP is still in draft form and various gaps have been identified and highlighted above. Our clients reiterate that this is an important document and it should be accorded the attention and time that it deserves.
23. As stated above, NDM should prioritise getting the necessary technical and financial capacity for the effective implementation of the AQMP. Additionally, the draft AQMP should be aligned to the HPA AQMP to the extent possible and should also be integrated into the IDP as soon as is possible (following a reasonable public participation process) so as to ensure that there is a budget for the implementation of the NDM AQMP.
24. Our clients are of the view that, to the extent possible, the NDM should be using the time and resources invested on this AQMP to implement existing goals and emission reduction plans, as required by the HPA AQMP.
25. In the circumstances, it is submitted that the gaps and concerns identified above be addressed before the next draft of the document is made available to stakeholders.

²¹ DraftV1 NDM AQMP 2020 goal 3, p102

²² DraftV1 NDM AQMP 2020 goal 3, objective 1 p102

²³ DraftV1 NDM AQMP 2018 goal, objective 10 p93

²⁴ DraftV1 NDM AQMP, paragraph 9 p114