



UMBABAT

LANDOWNERS OF THE UMBABAT

26 February 2018

UMBABAT PRIVATE NATURE RESERVE: FAQ

Frequently asked questions (FAQ) on the actions and processes to achieve compliance with the National Environmental Management: Protected Areas Act 57 of 2003

Please find below some comments and replies by Elmien le Roux on questions related to the above process

a. Is membership of a landowner's association voluntary.

That is the current situation in Umbabat

b. Due to the fact that a property has been proclaimed (old provincial legislation) as part of Umbabat Nature Reserve, is membership to the / a Landowners Association compulsory

The declaration status of the land under the old legislation would not as such imply compulsory membership of the landowner's association. In order to attain and maintain compliance with the norms and standards, compulsory membership is however inevitable.

c. Will the same apply with reference to a Protected Areas under new legislation

The declaration status of the land under the old legislation would not as such imply compulsory membership of the landowner's association. In order to declare land in the reserve that had not previously been proclaimed, it may well be that the MEC will require compulsory membership in order to ensure compliance with the norms and standards.

- d. Is it possible to be a Protected Area, and managed by a management authority (especially if it is a landowner's association), without being a member of said landowner's association?**

In theory - yes. It will however be in noncompliance with the norms and standards and will present obstacles to the formulation of a sustainable financial plan. It is therefore extremely undesirable to have such a situation and it must be avoided.

- e. The implications of those properties not yet proclaimed, that may want to proceed to register as protected area whilst there is no confirmation of the management authority of the reserve.**

In the process of applying to be declared and the conclusion of an agreement with the MEC, it is an integral part that the management authority to be appointed for Umbabat is the landowner's association. The MTPA indicated that they will not separate processes but will deal with all aspects in a seamless presentation to the MEC dealing with the new declarations, area will lose its declaration status and areas that must be declared as part of other reserves as they de facto part of such other reserves.

- f. Is it possible (although not preferable) to approach the MEC to confirm/appoint the Umbabat Landowners Association as the management authority as they have de facto been fulfilling this role (as one and later as a federal systems) over the years, even though an updated constitution is not in place? This relates to the urgency of registering additional properties as Protected Areas.**

Yes, such request is an integral part of the approach and shall also be reflected in the powers of attorneys to be granted by the land owners. As stated the MTPA indicated that they will not have separate processes but will deal with the appointment of the management authority together with all the other aspects relating to a specific reserve.

- g. What is the actual wording that will have to be endorsed on the Title Deeds as it pertains to protected areas and in particular the 99 years and the "bind themselves and their successors in title to become members of the Association..."**

There is no actual wording, but the agreement with the MEC is notarial executed and the endorsement refers then to such notarial agreement.

- h. Can you please provide for our reference the relevant act and clause where these endorsements are required?**

Section 35(3) (b) of NEMPAA requires that the terms of a written agreement must be recorded in a notarial deed and registered against the title deeds of the properties.

In terms of section 36 of NEMPAA it is required that the MEC must notify the Registrar of Deed of the declaration of the reserve and the content of a notarial agreement, whereupon the Registrar must note the status of the property as nature reserve in his records and documents.

- i. Are you aware of any current or draft legislation that allows government to change the 99 years (either up or down).**

No

- j. Is it clear what happens after the 99 years?**

Its status as reserve will not automatically lapse and how the way forward will have to be assessed with reference to the legislation at that point in time.

- k. Is the 99 years valid from date of first endorsement or does it start again after each sale of property?**

From the date of registration of the notarial agreement in the deeds office

- l. Is it possible for a landowner to engage into a process to deregister as a protected area?**

Yes

- m. What will the tax implications be when withdrawing?**

All tax benefits enjoyed or received will have to be repaid.

- n. Does it warrant to distinguish or elaborate here between the norms and standards for Protected Areas (GN382 of 31 March 2016) and Norms and Standards of Private Nature Reserves (GN 1157 of 3 November 2017)**

No, the principle is the same for all Norms and Standards

**UMBABAT STEERCO
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