

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

TUESDAY, 13 DECEMBER 2016

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ANNOUNCEMENTS**National Assembly****The Speaker****1. Request for filling of vacancies in Icasa**

(1) A letter dated 30 November 2016 has been received from the Minister of Communications –

- (a) Informing the Assembly that the terms of office of Ms Nomvuyiso Batyi and Ms Katharina Pillay, councillors of the Independent Communications Authority of South Africa (Icasa), will expire on 31 January 2017; and
- (b) Requesting the Assembly to commence with the process of filling the vacancies in terms of section 5 of the Independent Communications Authority of South Africa Act, 2000 (Act No 13 of 2000).

Referred to the **Portfolio Committee on Communications** for consideration and report.

2. Appointment of whips

(a) The following member has been appointed as a whip of the African National Congress in the National Assembly with effect from 1 October 2016:

Mabe, P P

(b) The following members have been appointed as whips of the Democratic Alliance in the National Assembly with effect from 6 December 2016:

Boshoff, H S
Figg, M J
Mackenzie, C

3. Referral to Committees of papers tabled

- (1) The following papers are referred to the **Portfolio Committee on Environmental Affairs** for consideration and report. The Report of the Auditor-General is referred to the **Standing Committee on Public Accounts** for consideration:
 - (a) Report and Financial Statements of Vote 27 – Department of Environmental Affairs for 2015-16, including the Report of the Auditor-General on the Financial Statements and Performance Information of Vote 27 for 2015-16.

TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Finance

- (a) Report to Parliament on the over- and underspending of municipalities as at 30 June 2016.

2. The Minister of Trade and Industry

- (a) South Africa's Protocol of Accession to the Agreement Establishing the Advisory Centre on World Trade Organisation (WTO) Law (ACWL), tabled in terms of section 231(2) of the Constitution, 1996.
- (b) Explanatory Memorandum to South Africa's Protocol of Accession to the Agreement Establishing the Advisory Centre on World Trade Organisation (WTO) Law (ACWL).

National Assembly

1. The Speaker

- (a) Reply from the Minister of Rural Development and Land Reform to recommendations in *Report of Portfolio Committee on Rural Development and Land Reform on Public Hearings on the Implementation of the Recapitalisation and Development Programme held on 4-5 February 2015*, as adopted by the House on 15 March 2016.

Referred to the **Portfolio Committee on Rural Development and Land Reform**.

- (b) Final Report of South African Human Rights Commission on African Diaspora Forum and 30 others v King Goodwill Zwelithini.

Referred to the **Portfolio Committee on Cooperative Governance and Traditional Affairs** for consideration and to the **Portfolio Committee on Justice and Correctional Services**.

COMMITTEE REPORTS

National Assembly and National Council of Provinces



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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**ANNUAL REPORT OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE FOR
THE FINANCIAL YEAR ENDING 31 MARCH 2016**

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1. INTRODUCTION

The Joint Standing Committee on Intelligence “The Committee or JSCI” is established in terms of section 2 of the Intelligence Services Oversight Act 1994, (Act No. 40 of 1994) (“The Oversight Act”). The purpose of the Committee is to perform an oversight function over the intelligence and counter-intelligence functions of the Services which includes the State Security Agency (SSA), the intelligence division of the South African National Defence Force and the intelligence division of the South African Police Service. The Committee hereby presents its report to the Parliament of the Republic of South African in accordance with section 6 of the aforementioned act.

2. COMPOSITION OF THE COMMITTEE AS AT 31 MARCH 2016

Name	Political party
Ms C C September	NA (ANC) Chairperson
Ms D E Dlakude	NA (ANC)
Ms Z S Dlamini-Dubazana	NA (ANC)
Mr D D Gamede	NA (ANC)
Mr D M Gumede	NA (ANC)
Mr C Nqakula	NA (ANC)
Mr J P Parkies	NCOP (ANC)
Mr O J Sefako	NCOP (ANC)
Mr J J Skosana	NA (ANC)
Ms T Wana	NCOP (ANC)
Mr H B Groenewald	NA (DA)
Mr H C Schmidt	NA (DA)
Mr DJ Stubbe	NA (DA)
Mr R N Cebekhulu	NA (IFP)
Mr B H Holomisa	NA (UDM)
Mr S C Mncwabe	NA (NFP)

Mr D L Twala (Economic Freedom Fighters) resigned as a Member of Parliament and the position was vacant as at 31 March 2016.

3. LEGISLATIVE MANDATE

Section 3 of the Oversight Act provides that the Committee, in exercising its oversight responsibility, performs inter alia, the following functions:

- Obtain audit and other reports from the Auditor-General and to consider the financial statements of the services;
- Obtain reports from the Evaluation Committee;
- Obtain reports from the designated judge as defined in the Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002 (Act No. 70 of 2002);
- Obtain reports from the Ministers responsible for the Services;
- Consider and make recommendations on the report and certificates issued by the Inspector-General;
- Consider and make recommendations on all proposed legislation and regulation relating to any Service or any other intelligence or intelligence related activity;
- Review and make recommendations about co-operation, rationalisation and demarcation of intelligence functions performed by the Services;
- Order investigation by and to receive a report from the Head of a Service or the Inspector-General regarding any complaint received by the Committee from any member of the public provided such complaint is not trivial, vexatious or made in bad faith;

- Refer any matter in relation to an intelligence activity which the Committee regards as relevant to the promotion and respect of the Bill of Rights to the South African Human Rights Commission;
- Consider and make recommendations on matters falling within the purview of the Act and referred to the Committee by the President or a Minister responsible for any Service or Parliament;
- To request relevant officials to explain any aspect of reports furnished to the Committee;
- To hold hearings and subpoena witnesses on any matter relating to intelligence and national security; and to
- To consult with any member of Cabinet in relation to any function performed by the Committee in terms of the Oversight Act.

4. ACTIVITIES OF THE COMMITTEE

The Committee hereby reports on the following matters for the period 1 April 2015- 31 March 2016.

4.1 Allegations of Rogue Intelligence Unit at the South African Revenue Service (SARS)

The Joint Standing Committee on Intelligence “the Committee” (JSCI) received briefings from the South African Revenue Service (SARS) and the Office of the Inspector General of Intelligence on 12 May 2015. The SARS delegation was led by the Deputy Minister, Hon M Jonas accompanied by the Commissioner, Mr T Moyane and other seniormanagement members. Adv J Govender represented the Office of the Inspector General. The Minister of State Security was also present but did not make any presentation.

4.1.1 Presentation by the Deputy Minister of Finance and the Commissioner of SARS

The Committee was briefed on the Sikhakhane Report and the Advisory Board process that was headed by the retired Justice F Kroon. The findings of the Sikhakhane Report were as follows:

- The establishment, existence and operations of the National Research Group and or the High Risk Investigation Unit (HRIU) were unlawful and without the requisite statutory authority;
- That the unit was operated ostensibly in a covert manner and created a climate of intrigue, fear and subterfuge within SARS;
- Prima facie evidence that the unit may have abused its power and resources by engaging in activities that reside in other agencies of government and which the SARS had no authority to form;
- Prima facie evidence that the unit's activities may have included rogue behavior that had the potential to damage the reputation of SARS as an organ of state.

The Advisory panel led by retired Justice Kroon was to advise on the outcome of the Sikhakhane Report and to inter alia review governance structures.

The Commissioner advised that going forward it was a priority to establish a stable and efficient SARS tasked with the collection of all revenue due to the State. A review is being undertaken that is looking at the SARS operating model, value for money on the investment made by SARS, the efficiency and efficacy of systems, ownership of intellectual property to build internal capability and to ensure long-term sustainability and good governance processes. Furthermore, there are discussions and negotiations with the State Security Agency that have commenced with a view to establish a unit that will combat illicit trade within the parameters of the law and it is proposed to be located in SSA.

4.1.2 Presentation by the Office of the Inspector General of Intelligence

The Minister of State Security informed the Committee that he requested the Office of the Inspector General of Intelligence to investigate the allegations made against the SSA in an article published in the City Press on 10 August 2014. In the absence of an Inspector General of Intelligence, officials in the Office of the Inspector General briefed the Committee on the findings of the investigation. SARS falls outside the Inspector General's mandate and as such the report focused on various media allegations made against SSA. The Committee was informed that the allegations in the City Press article were investigated and that SSA was exonerated.

4.1.3 Committee Findings

- There is a need for an intelligence unit at SARS to combat illicit trade, amongst other things, but such intelligence capacity must operate within the legal framework;
- Investigations relating to criminal charges, if any, must reach finality as quickly as possible.

4.2 Process for filling the vacancy of the position of Inspector General of Intelligence

The Committee was seized to the process to fill the position of the Inspector General of Intelligence. The term of the previous incumbent came to an end on 31 March 2015. The position was advertised from 10 May 2015 and closed on 21 May 2015. The Committee received 58 applications. A subcommittee was established to consider applications and short candidates who met requirements. Shortlisting and interviews were to be held in open meetings.

The subcommittee submitted to the full JSCI Committee the following 11 (eleven) candidates for interviews: Mr Cecil Valentine Burgess; Mr Clinton Paul Davids, Mr Mathe Matthews Diseko, Mr Imtiaz Fazel, Ms Desire Fouche, Ms Annalize Gerber, Advocate Jayashree Govender, Mr Smanga Phillip Jele, Mr Andile Barnabas Kilifele, Mr Mampogoane Petrus Nchabeleng and Mr Mahlubandile Itumeleng Radebe. Interviews took place on 09 and 10 June 2015. On 17 June 2015 the Committee deliberated on the outcome of the interviews and Mr Cecil Valentine Burgess was nominated as the successful candidate to fill the position of the Inspector General of Intelligence.

The Committee adopted the report and it appeared in the ATC on 18 June 2015. During March 2016 the National Assembly resolved to refer the report back to the Committee for further processing. On 30 March 2016 the Committee considered the matter and resolved to re-advertise the position.

4.3 Annual Reports and Auditing of the Secret Services Accounts of the Intelligence Services

4.3.1 Annual Report: State Security Agency

The Minister of State Security informed the JSCI that the department achieved most of its set targets but was concerned about cybercrime and terrorism but that the department was making good progress on those matters. The department received a qualified report due to limited access to sensitive information that could compromise national security. The Minister further noted that the issue of the Inspector General should be finalised and a future discussion on the proposal of a deputy Inspector General should happen in the near future.

The Director-General provided details of the projects undertaken during the year under review with specific emphasis on those partially achieved. The Director-General proposed striking a balance and building a greater understanding in respect of the auditing of the intelligence community. In this regard the Deputy Minister proposed a workshop to build trust and understanding with auditors and the intelligence services.

4.3.2 Annual Report: Crime Intelligence

The JSCI was unhappy with the style and orientation of the report of the police's Crime Intelligence. The Minister suggested an agreed format of reporting between the Portfolio Committee on Police and the JSCI, to align the reports submitted to the two committees.

Crime Intelligence indicated that during the year under review it achieved all the targets that were set in its Annual Performance Plan. Irregular expenditure was due to non-compliance with Treasury Regulations as documents were seized during a court case. Until the documents were returned, the irregular expenditure would remain an issue. A significant improvement was that outstanding policies had been finalised. The Committee noted that notwithstanding the presentation not being in line with the Committee requirements, there has been an improvement.

4.3.3 Annual Report: Defence Intelligence

The delegation was led by the Minister of Defence and Military Veterans. The Minister gave a brief overview of the Annual report. The Special Defence Account received a qualified audit for the first time as a result of limited access to sensitive information by the Office of the Auditor General of South Africa (AGSA).

The presentation by Defence Intelligence indicated that most of the targets that were set were achieved. Challenges that were reported included funding of the Defence Intelligence function, the military degree and the relocation of Defence Intelligence to a new headquarters. The Committee asked for plans on the headquarters in order to assist where possible. The Minister instructed the delegation to arrange for another meeting to provide detailed steps on the project of the headquarters to the JSCI including any blockages and challenges that may be hindering the relocation progress.

4.3.5 Audit-Reports

Each Service received a qualified report from the AGSA. The Audit Reports are attached hereto as Annexure B. Notwithstanding the qualified reports there has been positive progress, especially in respect of the SSA. There will however always be situations where the AGSA will not have access to certain information while conducting the Audit.

The AGSA advised that due to the intelligence environment they do not have unlimited access to information. As a result it would be misleading to give an unqualified audit opinion. Spending that cannot be verified by the supporting documentation will inevitably be classified as irregular expenditure. There will however be continuous engagements with the Services on this matter. All Ministers in the security cluster will be met by the AGSA together with their Directors-General to discuss the matter.

During the Committee oversight visit in January 2016 the Committee requested all the Services and the Office of the Inspector General to meet with the Auditor General and report thereafter to the Committee on the outcome thereof.

4.3.6 Committee Findings and Recommendations:

- A balance must be found between the need for accountability and good financial governance and access to information that has national security and intelligence implications.
- All the Services must report to the Committee on the outcome of engagements with the Auditor-General.
- The funding of the Intelligence Services is a concern to the Committee. The Minister of Finance will be invited to advise on the correct measures the Committee can explore regarding the Budgetary Review process that the JSCI is currently not participating in;
- Economic Intelligence and Cybercrime must be prioritised by the Services going forward. Each Service must indicate how they contribute to improving the security of the State against Economic and Cybercrime.
- The Committee expressed concern that presentations by the Services did not provide the Committee with information regarding crimes such as drug trafficking, copper theft and illegal mining.
- The Committee required that all details of Crime Intelligence work are presented, not only overt operations. The mere reporting of facts and figures does not place the Committee in a position to determine whether a difference is being made on the ground, and the value being received for the budget that is provided.

4.4 Annual Report: Office of the Inspector General of Intelligence

As a result of the vacancy in the position of Inspector General of Intelligence (IG) senior officials presented the activities of the Office of the Inspector General (OIGI) for the year under review. Flowing from the presentations the Committee observed the following:

- The vacancies at senior management level at National Communications (NC) has an impact on the execution of the mandate of NC;
- Information leakage from the Services is a cause for concern;
- The absence of a Risk Management Committee to monitor internal risk controls;
- That the Committee is unable to consider and make recommendations on the report and certificate transmitted to it in terms of section 7(7)(d) read with sections 7(11)(c) and 7(11)(d) of the Oversight Act.

4.5 Report by the Designated Judge on the Interception of Electronic Communications

The Committee, in accordance with Section 3(a)(iii) of the Intelligence Services Oversight Act, 1994 (Act 40 of 1994) may obtain from any designated judge as defined in section 1 of the Regulation of Interception of Communications and Communication related Information Act, 2002, (RICA), a report regarding the functions performed by him or her in terms of that Act including statistics regarding such functions, together with any comments or recommendations which such designated judge may deem appropriate: Provided that such report shall not disclose any information contained in an application or direction contemplated in section 3 of RICA.

The Report by the Designated Judge is attached hereto as Annexure C.

During January 2016 the Committee held a workshop with stakeholders involved in the implementation of RICA and findings and recommendations are included.

4.6 Border Management: Oversight Visit to the Province of KwaZulu Natal

4.6.1 Introduction

A parliamentary delegation comprising the Joint Standing Committee on Intelligence as well as the Portfolio Committees on Police, Home Affairs, Defence and Military Veterans, and International Relations and Cooperation embarked on a five-day border management oversight visit to KwaZulu Natal, on 15-18 September 2015. The purpose of the oversight visit was to focus on the following areas:

- *Land borders:* Challenges related to land border safeguarding; all forms of cross-border crime; crime and corruption at the ports of entry; border safeguarding of the areas between ports of entry; community engagement to ascertain levels of inter-departmental cooperation; and, readiness to integrate the Border Management Agency (BMA).
- *Maritime borders:* Challenges related to crime and corruption at the harbours; plans for the integration of the BMA; means to ensure the success of Operation Phakisa (advancing the Blue Economy); maritime territorial control including piracy and maritime crime; and, the status of the African Integrated Maritime Strategy.
- *Air borders:* Challenges related to airspace control; crime and corruption at air ports of entry; the status of radar control relating to South Africa's airspace; and, the BMA's approach to air border safeguarding.

A full report on this Joint Oversight Visit will be tabled separately from this report. In preparation for the oversight visit the JSCI received briefings from Crime Intelligence, Defence Intelligence and the State Security Agency.

South Africa's borders encompass land, air and maritime. The expanse and nature of South Africa's borderline contributes to complex safeguarding. Due to the porous nature of the country's borders, border safeguarding faces a number of problems which enable, inter alia, illegal migration; the spread of cross country diseases, human trafficking and other cross-border crimes. These problems are compounded by the threat of corruption and a lack of funding for border safeguarding purposes. Given these ongoing concerns, securing the borders must be prioritised.

4.6.2 Briefing on Border Management by Intelligence Services

Cross Border Criminal activity include inter alia:

- vehicle smuggling;
- poaching;
- illegal crossings;
- foreigners gaining access to government grants from South Africa;
- cigarette smuggling;
- livestock theft;
- Weapon smuggling from Mozambique and Swaziland via KZN to Lesotho, and
- Breach of airspace by low flying aircraft

The fight against the abovementioned cross border criminal activity and securing our borders is hindered by below average security at points of entry and inadequate scanners and CCTV equipment. Staff securing borders are not all adequately trained and some entry points are understaffed. Lack of adequate management personnel contributes to lack of control and increased corruption and collusion by staff. Fences along the border are in poor condition and border

patrols are ineffective. Maritime border security is hampered by the inadequate number of appropriate patrol boats while insufficient radar coverage compromises the safeguarding of air space.

Border security can be improved by having a greater visibility of the South African National Defence Force at identified areas, intelligence operations to be conducted at criminal hot spots and an increase of planned patrols at designated areas.

4.6.3 Committee findings and recommendations

- Intelligence operations are not yielding the desired outcomes
- Officials are inadequately trained and equipped
- Installation of CCTV cameras and scanners at land border posts are not prioritized
 - There is no central database of illegal entrants, stowaways and asylum seekers to identify repeat offenders and persons who abuse refugee status applications.
 - Corrupt and criminal activities by locals, government officials and taxi drivers providing information to illegal crossers and smugglers regarding roadblocks or presence of security forces at different points of the border line are not properly managed.
- Inadequate radar coverage compromises air border security.
- The Committee resolved to invite the Ministers of the Security Cluster to discuss the concerns identified during the joint oversight visit to the borders of KZN and to prioritise border management going forward.

4.7 Regulation of Interception of Communications and Communication related Information Act, 2002, (RICA): Oversight Visit from 25 to 29 January 2016

4.7.1 Introduction

The Committee visited the Interception Centres Office (OIC), and National Communications (NC). It also participated in a workshop with stakeholders involved in the implementation of RICA.

The workshop was a joint initiative between the Office of the Judge for interception and the Committee to better understand the challenges in the implementation of RICA. Amongst the stakeholders that attended were the Department of Justice and Constitutional Development, State Security Agency, Post and Telecommunication, Communications, Crime and Defence Intelligence.

4.7.2 Visit to the Office of Interception Centres (OIC)

The OIC is established in terms of section 33 of RICA and is responsible for, inter alia, the implementation of the provisions of RICA in relation to interception activities. The Acting Head of the OIC informed the Committee that the main function of the OIC is to facilitate the interception of electronic communication for the Services. The process to intercept requires firstly a warrant from the designated Judge. Secondly the warrant must be sent to the Service Provider who will then route the electronic communication of the target listed in the directive to the OIC. The OIC therefore does not have capability, on its own, to intercept any electronic communication without the warrant and the routing of the communication to the OIC by the service provider.

The Acting Head summarised the challenges facing the OIC as follows:

- Rapid technological advancement has resulted in technical directives being outdated. Most of the equipment installed at the OIC was done at its establishment in 2002.
- Advancement of technology has also resulted in a gap in the ability to intercept certain communications
- An improved electronic application system will enhance the directive application process and the fight against crime.

In concluding the OIC recommended the following:

- Review of RICA legislation
- Electronic application for an interception directive to be implemented as quickly as possible
- Complete review of the structure
- Disaster recovery system should be established

4.7.3 National Communications (NC)

National Communications (NC) is a branch within SSA that is comprised of the OIC, the National Communications Centre and COMSEC which was previously Electronic Communications Security (Pty) Ltd.

The Acting Head of National Communications summarised part of the NC function as follows:

- To analyse the electromagnetic spectrum and programme the acquired signals to extract usable information;

- To install and maintain Signal Intelligence (SIGINT) collection platforms; and to
- Conduct feasibility studies to identify new geographic signal collection sites

Similarly to the challenge experienced by the OIC, rapid advances in technology are not compatible with the outdated technology NC is presently using. NC summarised its challenges as follows:

- Rapidly changing technology;
- Inability to collect SIGINT information for
 - Intelligence purposes;
- Limited Access to relevant source of signals;
- Signal coverage due to the geographic position of South Africa; and
- Intellectual and professional capacity in respect of Communications Security.

4.7.4 Workshop with RICA stakeholders

The workshop laid a foundation for further work that the Committee will pick up during the next reporting cycle before specific recommendations are made. The committee found that RICA is in urgent need of review. The outdated legislation, together with the outdated technology provides a gap that is exploited by criminals. There are many Stakeholders involved in the implementation of RICA they should work much more closely together. The Committee noted the good working relationship, and a level of trust, between the Designated Judge and the LEA's which contributed in achieving the balance between protecting the constitutional right to privacy and fighting crime.

Recommendations

- The funding of the Intelligence Services is a concern to the Committee. The Minister of Finance will have to advise on the correct measures the Committee can explore regarding the Budgetary Review process.
- Economic Intelligence and Cybercrime must be prioritised by the Services, with each Service indicating how they contribute to improving the security of the State against Economic and Cybercrime factors.
- SARS should establish an intelligence unit to combat illicit trade, amongst other things, but such intelligence capacity must be created and deployed within the legal framework.
- Relevant Ministers dealing with communication related matters (RICA) must be able to address the responsibilities and accountabilities of the Service Providers and to discuss the reliability of the country on the service providers.
- A central database of illegal entrants, stowaways and asylum seekers to identify repeat offenders and persons who abuse refugee status applications, should be established.

Report to be considered.

GLOSSARY OF ACRONYMS

AGSA	Auditor General of South Africa
BMA	Border Management Agency
IG	Inspector General
JSCI	Joint Standing Committee on Intelligence
KZN	Kwazulu Natal Province
NC	National Communications
OIC	Office of Interception Centres
OIGI	Office of the Inspector General of Intelligence
RICA	Regulation of Interception of Communications and Communication – related Information Act, 2002 (Act No. 70 of 2002)
SARS	South African Revenue Service
SIGINT	Signal Intelligence
SSA	State Security Agency

**ANNUAL REPORT ON INTERCEPTION
OF
PRIVATE COMMUNICATIONS
PERIOD 2014/2015**

By JUSTICE YVONNE MOKGORO

Designated Judge

To : Joint Standing Committee on Intelligence: Parliament

Date: 15 October 2015

STRUCTURE

- 1. INTRODUCTION**
- 2. INTERCEPTION**
- 3. INTERNATIONAL LAW**
- 4. SOUTH AFRICAN LEGISLATIVE FRAMEWORK**
 - 4.1 Prohibition of Interception of Communication**
 - 4.2 Interception in case of Emergency**
 - 4.3 Application for issuing of directions and entry warrants**
- 5. KEEPING OF RECORDS BY HEADS OF INTERCEPTION**
- 6. SUPPLEMENTARY DIRECTIVES REGARDING APPLICATIONS**
- 7. THE ACT vs RIGHT TO PRIVACY**
- 8. CHALLENGES**
- 9. RICA AND THE FUTURE**
- 10. FULL STATISTICAL INFORMATION OF APPLICATIONS**
 - 10.1 The National Intelligence**
 - 10.2 The South African Police Service**
 - 10.3 The South African National Defence Force**
 - 10.4 The Financial Intelligence Centre**

1. INTRODUCTION

The need for good quality and timely intelligence to counter crime and security threats cannot be exaggerated. For that reason, good quality must include reliability of the intelligence gathered. Although the interception of electronic communications has for a number of obvious reasons become a preferred method of gathering crime intelligence, it is critical to be cognisant of the constitutional limitations of an intelligence method of interception as a first-even in the face of highly organised criminal syndicates.

The idea is to continuously strike the fine balance between ensuring legal compliance without frustrating effective intelligence method. This test is that of justification, finding good cause, based on the facts of the particular case as required in Section 16(2)(a) of the Regulation of Interception of Communications and Provision of Communication-Related Information Act (RICA), Act 70 of 2002.

Further, the escalation of cyber-crime and its increasing sophistication continue to pose grave challenges to law enforcement agencies fulfilling their duties optimally and most efficiently. Crime syndicates in particular, utilize these technologies successfully and with ease, planning and perpetrating serious crimes like:

- Human trafficking;
- drug dealing and drug trafficking;
- money laundering;
- corruption and fraud;
- kidnappings;
- assassinations;
- terrorism;
- heists; etc

This state of affairs, together with the escalating rate of technological crime and highly sophisticated criminal methods has made interception a popular method of investigation not only in South Africa but in almost every country in the world. Thus, the world over, interception of communications relative to the right to privacy and human dignity, is generally considered a necessary evil to protect law abiding citizens from criminal conduct.

2. INTERCEPTION

Lawful interception plays a crucial role in advancing intelligence as part of gathering the investigative method. It represents an indispensable means of gathering criminal intelligence.¹ The Regulation of Interception of Communications and Communication-related Information Act, 2002 (Act 70 of 2002), (“RICA”), was designed to allow the State to intercept communications and provide communication-related information during the investigation of serious crimes. The process must, however be legal in that it must be authorised by the designated judge.

The RICA provides the necessary guidance and requires strict compliance with the procedure that should be undertaken when applying for an interception direction from the designated judge.² When doing so, the RICA demands thorough appreciation and application of section 14 of the Constitution, which relates to the right to Privacy.

For that reason, the application for an interception direction must be considered as a last resort, as the RICA seeks to guard against its abuse and the violation of constitutionally protected rights.

¹ Notes on OECS Interception of Communications’ Bill, page 6 found at: <http://unpan1.un.org/inradoc/groups/public/documents/TASF/UNPAN024636.pdf>

² Regulations of Interception of Communications and Provision of Communication-Related Information Act, 70 of 2002 RICA is the successor to the Interception and Monitoring Act 127 of 1992.

3. INTERNATIONAL LAW

To detect and investigate crimes that are committed through the use of electronic technology has been a global challenge for years. This resulted in the approval of the use of interception devices by the Council of Europe Convention, to which South Africa is a signatory. Almost all countries in the world, for example, the United Kingdom (Regulation of Investigatory Powers Act, 2000), the United States of America (, inter alia, Title III of the Omnibus Crime Control and Safe Streets Act of 1968 as amended), Australia (Telecommunications (Interception) Act 1979), New Zealand (Crimes Act and Misuse of Drugs Act), various countries in Europe etc, have adopted legislation to regulate the lawfully intercepted communications in order to combat criminal activities. In general the interception and monitoring of communications in all these countries balance the subject's right to privacy with that of the need to investigate and detect crime. Interception of communications in these countries is only allowed if it is judicially sanctioned or approved by an independent higher authority.

4. SOUTH AFRICAN LEGISLATIVE FRAMEWORK

To deal with the question of finding better mechanisms in addressing this challenge, the South African Law Reform Commission (SALRC) felt it was important to undertake a review of the effectiveness of the then Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992). The investigation had shown that the Interception and Monitoring Prohibition Act, was outdated in that it did not adequately deal with new developments in the field of electronic technology and the use thereof in the commission of crimes.

As a result of the recommendations of the SALRC the Interception and Monitoring Prohibition Act, was replaced by the RICA. The aims of the RICA are, inter alia, to:

- (a) Protect subjects of the Republic against the unlawful interception of communications;
- (b) oblige all electronic communications service providers (ECSPS) to provide a service which is interceptable and which is able to store communication related information;
- (c) provide for a structure which is responsible for the lawful interception of communications;

- (d) oblige ECSPS to record and store information which can be used to identify their customers;
- (e) prohibit the possession and manufacturing of interception devices;
- (f) provide for the lawful interception of communications in emergency situations;
- (g) provide that the interception of communications must, unless the RICA provides otherwise, be approved by a designated judge.

Some of these aspects are dealt with in more detail below:

4.1 Prohibition of interception of communication

The Regulations on Interception of Communications prohibit any person to intentionally intercept or attempt to intercept, or otherwise procure any other person to intercept or attempt to intercept, at any place in the Republic, any communication in the course of its occurrence or transmission unless it is done in terms of the provisions of the RICA.³

³ Section 2

4.2 Interception in cases of emergency

In a case of an emergency, where there are reasonable grounds to believe that an emergency exists by reason of the fact that the life of another person is being endangered, the applicant can orally request the ECSP concerned to intercept any communication to or from the sender in any other manner which the telecommunication deems appropriate or provide such assistance as may be necessary to determine the location of such a person (sections 7 and 8 of the RICA).⁴

These processes are however subject to judicial scrutiny in that the information obtained as well as affidavits from the ECSPS and law enforcement officers who requested the information must be submitted to the designated judge for scrutiny.

4.3 Application for issuing of directions and entry warrants

Under the RICA, a designated judge may authorise –

- (a) the interception of direct or indirect communications by way of an interception direction in terms of section 16 of the RICA;
- (b) the interception of real-time

⁴ Section 8(1)(b) and (aa)

communication-related information on an ongoing basis by means of a direction in terms of section 17 of the RICA;

- (b) the combined interception of of direct or indirect communications, real-time communication-related and provision of archived communication-related information by means of a direction in terms of section 18 of RICA;
- (c) the decryption of intercepted information by means of a decryption direction in terms of section section 21 of RICA; and
- (d) entry warrants for the purposes of entering a premises for the placing of interception devices in terms of section 22 of RICA.

The above-mentioned directions or entry warrant can only be granted after the law enforcement agencies make a formal application to the designated judge. In considering such an application, the RICA imposes various factors that must be considered by the designated judge before he or she may grant a direction or entry warrant.

With regard to an interception direction, the Act compels any person who is authorised to intercept communication, to complete an application and submit it to the designated

judge for consideration. The application should clearly indicate, *inter alia*, the identity of the applicant, the identity of the law enforcement officer, the person whose communication is required and the telecommunication service provider to whom the direction must be addressed.⁵

To invoke the application of section 36 of the Constitution, the Act further requires the applicant, in his or her application, to include the basis for believing that evidence relating to the ground on which the application is made will be obtained through the interception applied for.⁶

Furthermore, the application must indicate, where applicable, whether other investigative procedures have been applied and failed to produce the required evidence and why other investigative means are unlikely to succeed or appear to be too dangerous.⁷

An interception direction may be granted if the designated judge is satisfied that:

- A serious offence has been or is being or will be committed or public health or safety is threatened etc;

⁵ Section 16

⁶ Section 16(2)(d)(ii)

⁷ Section 16(2)(e)

- the interception will provide information regarding the offence or threat;
- the facilities from which the communications will be intercepted are usually used by the person; and
- other investigative methods had been unsuccessful or too dangerous.

5. KEEPING OF RECORDS BY HEADS OF INTERCEPTION

The head of an interception centre (i.e The OIC) must on a quarterly basis submit to the State Security Agency (SSA) a written report of the records kept, abuses in connection with execution of directions and any defect in any electronic communications system which has been discovered.⁸

This obligation is there to ensure that there is full compliance with the RICA at all times.

⁸ Section 37(1)(2)(a)(i-iii)

6. SUPPLEMENTARY DIRECTIONS REGARDING APPLICATIONS

A designated judge or designated judges, jointly, after consultation with the respective Judges-President of the High Courts, may issue directives to supplement the procedure for making applications for the issuing of directions or entry warrants and the directive issued must be submitted to parliament.⁹ During the period of this report, no supplementary directions have been found necessary. Therefore, none has been issued.

7. THE ACT vs THE RIGHT TO PRIVACY

Section 14 of the Constitution protects everyone's right to privacy, which includes the right not to have "the privacy of their communications infringed".¹⁰ Furthermore, Privacy is a fundamental human right recognised internationally in instruments like the UN Declaration of Human Rights, the International Covenant on Civil and Political Rights, and regionally in the African Charter on Peoples' Rights, etc. It underpins human dignity and other key values such as freedom of association and freedom of speech.¹¹

⁹ Section 58(1) and (3)

¹⁰ The Constitution of the Republic of South Africa, 1996

¹¹ Privacy and Human Rights-An International Survey and Privacy Laws-
<http://gilc.org/privacy/survey/intro.html>

Article 8 of the Convention on Human Rights explicitly states that, “there shall be no interference by a public authority with the exercise of this right except in accordance with the law and to the extent that it is necessary in a democratic society and in the interests of national security, public safety or the economic well-being of the country. The right to privacy in this regard may also be limited in preventing disorder or crime, for the protection of health, or the rights and freedom of others”.

The Article makes it clear that the information collected by enforcement agencies, must only relate to that which is identified by the warrant issued, such that, only persons or people who are suspected of committing serious offences or participating in activities against the interests of national security, may forfeit their right to privacy.¹²

In our Constitution, no right is absolute. All rights, including the right to privacy are limited, but only in terms of a law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors.¹³

¹² European Convention on Human Rights for the Protection of Human Rights and Fundamental Freedom-www.hrcr.org/docs/Eur_convention/euroconv3.html

¹³ The Constitution of the Republic of South, section 36(1) 1996-Limitation Clause
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Indeed, “the shift in balance towards absolute individual privacy is in itself a threat to security and the consequence of this choice will [in the context of the state of crime rates in South Africa] affect our personal safety, our right to live in a society where lawlessness is not tolerated and the ability of law enforcement to prevent serious and other violent criminal activity”.¹⁴

In the matter of *The Investigating Directorate and Others v Hyundai Motor Distributions*, Justice Langa DP held that

“It is a notorious fact that the rate of crime in South Africa is unacceptably high. There are frequent reports of violent crime and incessant disclosures of fraudulent activity. This has a serious effect not only on the security of citizens and morale of the community but also on the country’s economy. This ultimately affects the government’s ability to address the pressing social welfare problems in South Africa. The need to fight crime is thus an important objective in our society...”¹⁵, then

¹⁴ Lawful interception-Andres Rojab-centre for advanced Internet Architectures Swinburne University of Technology-Feb 9 2006- <http://caia.swin.edu.au>

¹⁵ *The Investigating Directorate and Others v Hyundai Motor Distributions (PTY) (LTD)* 2001 (1) SA 545 (CC)
ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS NO 164—2016

In *California v Ciraolo* the court held,

“The right to privacy is not meant to shield criminal activities or to conceal evidence of crime from the criminal justice process, however, state officials are not entitled without good cause to invade the premises of persons for purposes of searching and seizing property...”¹⁶

8. CHALLENGES

There is a continued general public perception that some law enforcement and other institutions and/or officers use these intrusive interception methods to advance their own interests with no regard to the rights and values the RICA aims to protect in the context of the Constitution. The media, in particular the social networks, are inundated with reports, allegations and comments of manipulation and abuse of the interception system by officials and even individuals, ranging from-

- obtaining of information in less than 36 hours, without the Designated Judge’s knowledge;
- acquisition of cell phone billing and ownership records through crime intelligence, without the Judge’s knowledge or approval, in order to expedite the investigation;

¹⁶ California v Ciraolo 476 US 207 (1985) at 213-4
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- obtaining text messages and cell phone billing records needed for personal reasons, through a contact at crime intelligence and/or the service providers;
- the popularity of interception method which is preferred over conventional methods of investigation;
- the apparent lack of trust of the Designated Judge with regard to information gathered through crime intelligence;
- failure of applicants to provide fact-based justification for an application to the Judge;
- applicant's need to comprehend that suspicion of crime without any factual basis is not sufficient for application for interception;
- the tendency for vagueness of basis for an application, the cut and paste approach to an affidavit and the tendency to regard the authorisation for interception as a given and therefore the taking and

- wide allegations of bribery of contacts at banks and telecommunications service providers etc.¹⁷

Not all of these challenges may be resolved through legislative amendments. Some may only be resolved through the dedication, commitment, full understanding and appreciation of the important role of investigation officers gathering crime intelligence in a democratic society based on the values of human dignity, freedom and equality. The need to sharpen and constantly improve the investigative skills and prowess of our law enforcement officers comes to mind - no doubt an important aspect of contemporary policing.

9. RICA AND THE FUTURE

The RICA was assented to on 30 December 2002 and came into operation on 30 September 2005. From 2002 to date, there have been substantial developments that took place in the electronic communications field. The Electronic Communications Act, 2005 (Act 36 of 2005), introduced a new electronic communications dispensation in South Africa, moving away from the dispensation envisaged in the RICA, where there is a clear, distinction based on a

¹⁷ How the government spies on you-Mail and Guardian Online-
<http://mg.co.za/articles/2011-10-14>

fixed line, internet and mobile cellular communications based on the Telecommunications Act, 1996 (Act No. 103 of 1996). The RICA should therefore be revamped to bring the terminology in line with the current electronic communications dispensation as is envisaged in the Electronic Communications Act, 2005.

New services are seeing the light, inter alia, Black Berry Messenger Services, BlackBerry Enterprise Services, Skype and a host of other services, which is mostly Internet based, which is clearly not interceptable, and even if it were interceptable, the encryption that is applied to such services makes it nearly impossible for the law enforcement agencies to obtain any information on the content of a communication. This aspect must be further investigated in order to find a solution.

The RICA needs to be revised in light of the obligations which the Republic may incur if we accede to the African Union Convention on the establishment of a credible legal framework for cyber security in Africa in order to deal with cybercrime.

The RICA should in so far as if possible regularly be revised in order to ensure that it keeps pace with ongoing developments.

9.1 Amendments to the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act 70 of 2002) (the RICA)

The Department of Justice and Constitutional Development has indicated that legislation which affects various amendments to the RICA is on the legislative program of the Department for the 2016/2017 financial year. Amendments which are considered are, among others, amendments which are aimed at –

- (a) facilitating an electronic process for applications for directions and service of directions contemplated in Chapter 3 of the RICA;
- (b) ensuring the integrity of the process of obtaining customer information;
- (c) further regulating listed equipment provided for in sections 44, 45 and 46 of the RICA;
- (d) complimenting information sharing between electronic communications service providers and Government agencies;
- (e) further providing for interception capabilities of law enforcement agencies;

- (f) imposing obligations on electronic communications service providers who provide an internet service to record and store call related information; and
- (g) appoint a regulatory body to ensure compliance with the RICA by the electronic communications service providers.

The terminology used in the RICA will also be reviewed to address interpretation problems which are being experienced.

A specific problem was identified which relates to the RICA registration process, provided for in section 40, where the particulars of customers were incorrectly captured. According to available information, certain persons RICAed various SIM-cards in their name and thereafter sold the SIM-cards to other persons without complying with section 40(5) of RICA. In terms of section 40(5) of the RICA, any person who sells or in any manner provides an activated SIM-card to another person (other than a family member), as well as the person who receives the SIM-card, must, immediately upon the sale or provision of the SIM-card, provide the relevant electronic communication service

provider with their full names, surnames and identity numbers. Specific amendments are introduced to address this shortcoming in the RICA.

9.2 The Cybercrimes and Cybersecurity Bill, 2015 (the Bill)

The Department of Justice and Constitutional Development has recently published the Bill for public comment. The Bill—

- (a) comprehensively criminalises offences which can be committed in cyberspace;
- (b) provides for expanded jurisdiction;
- (c) gives law enforcement agencies cyber specific investigative powers;
- (d) deals with international co-operation in matters relating to cybercrime;
- (e) provides for the establishment of various structures in Government to deal with cybercrime and cybersecurity;
- (f) provides for the protection of critical information infrastructures;
- (g) deals with certain aspects of evidence;

- (h) imposes obligations on electronic communications service providers to report cybercrime and to provide assistance to their clients to curb cybercrime; and
- (i) provides for international agreements between the Republic and foreign States or territories.

The Bill also affects amendments to other legislation, among others, the RICA.

The Bill contains provisions which ensure that there is synergy between the RICA and the Bill in so far as it relates to information which must be obtained to investigate or prove cybercrimes (clauses 39, 40 and 41).

In so far as international co-operation is concerned the Bill introduces new processes, which involve the office of the designated Judge, see clauses 41(3) to (11) (disclosure of data) and clauses 46 to 48 (requests for international co-operation). If Parliament follows the course proposed in the Bill it will mean that the workload of the office of the designated judge will increase substantially and it is hoped that the office of the designated judge will be expanded accordingly.

In terms of clause 66 of the Bill, the Schedule to the RICA is amended by the inclusion of the various offences contemplated in the Bill in the Schedule to the RICA. The Schedule to the RICA is further amended to include offences which are substantially similar to the offences provided for in the Bill, which are or was committed in a foreign State or territory. The effect of these amendments is that the RICA can be used to intercept indirect communications, real-time communication-related information and archived communication-related information in respect to the offences provided for in the Bill.

10. NEW LAW ENFORCEMENT AGENCY (NLEA)

Two additional agencies namely South African National Defence Force (SANDF) and Financial Intelligence Centre (FIC) has started to submit applications for interception during 2014. The Designated Judge has provided the necessary workshop to both these agencies, with a view to heighten the consciousness, understanding and appreciation of the need for the submission of RICA compliance application at all times.

11. SOME INFORMATION ON “GRABBER” AND OTHER LISTENING DEVICES.

Under the RICA Act, the devices utilised by various Law Enforcement Agencies do not require the designated Judge’s authorisation. Once authorisation has been obtained to install a listening device, the nature of the device does not require approval of the designated judge. Whatever challenges are experienced in that regard can be explained by the particular agencies.

12. STATISTICAL INFORMATION OF APPLICATIONS FOR DIRECTIONS

12.1 State Security Agency (SSA)

Figures for the period are as follows:

	2014/2015	2013/2014
• New Applications	41	28
• Re-applications	52	34
• Amendments	57	38
• Extensions	54	35
• Combined Amendments and Extensions	23	13
• Entry Warrants (Installation of listening devices)	4	5
• Section 11 (Application for RICA information)	103	66

<i>Tuesday, 13 December 2016]</i>		49
• Refusals	10	5
• Oral Applications for Interceptions (i.t.o Section 7 & 8)	4	2
• Total	348	231

12.2 THE SOUTH AFRICAN POLICE SERVICES (SAPS)

Figures for the period are as follow:

	2014/2015	2013/2014
• New Applications	233	158
• Re-applications	35	23
• Amendments	12	10
• Extensions	36	6
• Refusals	0	0
• Amendments and Extensions	70	22
• Total	386	385

12.3 THE SOUTH AFRICAN SECRET SERVICE(SASS)

Figures for the period are as follow:

	2014/2015	2013/2014
• New Applications	2	2
• Refusals	0	0
Total	2	2

12.4 FINANCIAL INTELLIGENCE CENTRE(FIC)

Figures for the period are as follow:

	2014/2015	2013/2014
• New Applications	6	3
• Amendments	1	
• Extensions	7	
• Amendments & extensions	3	
• Refusals	1	0
Total	18	3

12.5 SOUTH AFRICAN NATIONAL DEFENCE FORCE

(SANDF)

Figures for the period are as follow:

	2014/2015	2013/2014
• New Applications	5	3
• Amendments	1	1
• Refusals	0	0
Total	6	4

Combined figures for SSA, SAPS, SASS, FIC and SANDF are as follow:

	2014/2015	2013/2014
• Applications (New)	286	194
• Re-applications	87	56
• Amendments	71	49
• Extensions	97	41
• Amendments and Extensions	96	35
• Entry Warrants	4	5
• Section(11)	103	66
• Oral intercepts	4	2
• Refusals	11	5
• Total	760	453

The total number of all applications for interception in the current financial year has increased by 296 from the total of application in the previous year. Four (4) Entry Warrants, the most invasive of all interceptions had been applied for and granted. All four (4) has been requested by SSA and were therefore obtained for States Security investigations. Similarly in the 2013/2014 financial year five (5) Entry Warrants had been applied for by SSA and were also granted. No other agency had applied for Entry Warrant in

the last financial year. Oral applications are submitted in cases of utmost urgency. Four (4) applications had been submitted and all 4 had been for purposes of the SSA investigations and were approved.

13. THE SUCCESS RATE OF INTERCEPTION.

The rate of success of the interception method in the fight against crime is not easily discernable. It may be argued that the number of successful interceptions is equal to the number of applications for extension of existing interception directions, in that every application for extension requires clear indication of the relevant court – admissible evidence obtained in the last direction and what further information is intended to be obtained to make a case against a target right for prosecution. Besides, the successful prosecution of a particular target does not rely only on information obtained through interception. Success depend on a holistic approach to the investigation of a particular case.

The success of interception as an investigative method is therefore highly subjective.

14. ADMINISTRATION

The Office for the Control of Interception and Monitoring of Communications, processes applications submitted to the designated Judge in terms of the provisions of the Regulation of Interception of Communications and Communication-related Information Act, 2002 (Act 70 of 2002) (the RICA).

14.1 Staffing

The staff component comprises of six officials namely Assistant Director, Legal Administration Officer, Administration Officer, Chief Administration Clerk, Receptionist and Registry Clerk. Their responsibilities in brief are as follows.

14.2 Office Manager (Ass. Director)

Planning and organizing activities of the component. Provide leadership pertaining to financial and administrative Services. Manage processing of applications. Liaising with all stakeholders in Law enforcement. Co-ordinating activities of all law enforcement agencies. Duties also include staff management, asset management, compilation of statistics, ensure high level of confidentiality in the office and provides overall executive support to the office of the designated Judge.

14.3 Legal Administration Officer

Provides Legal support to the designated Judge. She is responsible for all the research required by the designated Judge to facilitate the role and functions of the designated Judge, including compilation of information for public presentations, seminars, workshops and conferences.

14.4 Administration Officer

Render secretarial and administrative duties to the Judge, provides administrative support for the office as a whole, processes all payments and assists with efficient management of stores and assists clients daily.

14.5 Chief Registry Clerk

Supervision of Registry personnel ensures proper handling of records, ensures proper execution of track and trace list and also ensures that documents are delivered to National Office and Office for Interception Centres.

14.6 Receptionist

Performs receptionist functions, performs clerical duties, supports the Judge and other staff members, filing and updating all records.

14.7 Registry clerk

Opening, closing and disposing of files according to National Archival Instructions, ensures correct placing of records, maintains proper track and trace lists daily, re-filing daily and related miscellaneous tasks.

14.8 Budget

Historically, the office of the Designated Judge does not have its own budget. It continues to function as a component of the Higher and Record Management Directorate in the Department of Justice and Correctional Services. All requisitions are therefore subject to approval by the Director (PAIA and Records Management) who manages the resources of the Unit in terms of need.

14.9 OFFICE INFRASTRUCTURE

Furniture

The Office is in dire need of new office furniture, filing system, new telephone system, official cell phones for Chief Registry Clerk and Administration Officer. A request was made for the purchase of office furniture on the 25/07/2013. The request was forwarded to the Director

(PAIA & Interception). In it was approved by the then Acting Deputy Director-General (Corporate Services) on the 01/08/2013. The office was later advised that there is no funding for furniture.

Official cell phones

A request was made for official cellular phones for Chief Registry Clerk and Administration Officer. It was forwarded to the designated official on the 30 July 2013. The office is still awaiting a response in this regard.

Why the need for cell phones?

The office deals with application on a 24hrs basis. The Chief registry Clerk transports the applications daily to the Judge. It is therefore necessary to be reachable and be able to make contacts by telephone at all times.

Mobile Filing System

Why Mobile Filing System?

The office handles top secret documents which must be stored for a minimum period of 5 years. In order to comply with the Archival Act, storage is a challenge. A mobile filing system will address this difficulty.

A request to purchase mobile filing system was forwarded to the Director on the 30 July 2013. We are still waiting for a response.

15. CONCLUSION

Indeed, that the system of lawful interception of private communications may be open to abuse is a likelihood that we should not be blinded to. It could be for expediency where the legal application process may be overly cumbersome. However, abuse in any form cannot be tolerated. However, together the relevant monitoring systems are well-functioning, ever conscious of the need for utmost vigilance.

As a matter of fact, that the approach of the designated judge has been one of capacity-building among others:

- Two annual workshops on the understanding of the interceptions application process and its challenges, in the context of the constitutional provisions and values are planned, and two (2) have been conducted by the designated judge-for the benefit of all sectors and role players in the interception process.

- Individual attention is provided where necessary, giving specific comments on the shortcomings of each application and continuously conscientising applicants of the importance of the realisation that interception directions are not there for the taking and shall be justified by facts which point to the commission of a crime or a crime in process and
- The need to be ever conscious that interception is not an investigative method of first resort. It is employed only once conventional methods have been shown in the application to have been ineffective and or impossible, due to the particular circumstances of the case.

This capacity-building method has been highly effective and generally welcomed. The response to the workshops and the above individual attention has borne positive results, e.g mere suspicion is not based on sex generally no longer viewed as basis for an interception application and there is clear appreciation that an application for an interception direction is not there for the taking.

Report of the auditor-general to parliament on the South African police service crime intelligence: secret service account

Report on the financial statements

Introduction

1. I have audited the financial statements of the South African Police Service Crime Intelligence: Secret Account set out on pages XXX to XXX, which comprise the appropriation statement, the statement of financial position as at 31 March 2015, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, as well as the notes, comprising a summary of significant accounting policies and other explanatory information.

Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the Modified Cash (MCS) Standard prescribed by the National Treasury and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-general's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with International Standards on Auditing. Those standards require that I comply with ethical requirements, and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

16/12

Basis for qualified opinion

Level of audit assurance

6. Owing to the nature of certain operational transactions and the circumstances under which they are incurred and recorded as well as the circumstances under which the assets and services are procured and utilised, the level of assurance in respect of certain operational expenditure is, under these circumstances lower than with ordinary audits.

Qualified opinion

7. In my opinion, except for the possible effects of the matter described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the South African Police Service Crime Intelligence: Secret Service Account as at 31 March 2015, and its financial performance and cash flows for the year then ended, in accordance with the MCS and the requirements of the PFMA.

Report on other legal and regulatory requirements

8. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives for selected programmes presented in the annual performance report, non-compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

9. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information for the following selected programme presented in the annual performance report of the account for the year ended 31 March 2015:
- Programme 1 – crime intelligence on pages XX to XX
10. I evaluated the reported performance information against the overall criteria of usefulness and reliability.
11. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned programme. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant, as required by the National Treasury's Framework for managing programme performance information (FMPPi).
12. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

13. I did not identify any material findings on the usefulness and reliability of the reported performance information for programme 1: crime intelligence.

Additional matter

14. Although I identified no material findings on the usefulness and reliability of the reported performance information for the selected programme, I draw attention to the following matter:

Achievement of planned targets

15. Refer to the annual performance report on pages XX to XX for information on the achievement of planned targets for the year.

Compliance with legislation

16. I performed procedures to obtain evidence that the account had complied with applicable legislation regarding financial matters, financial management and other related matters. I did not identify any instances of material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA.

Internal control

17. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with legislation. I did not identify any significant deficiencies in internal control.

Other reports

Investigations

18. A criminal investigation is currently being conducted since 2011/12, by the Hawks (Department of Priority Crime Investigations (DPCI)) into allegations of misuse and abuse of the Department's funds by certain members.

Auditor - General

Pretoria

23 July 2015



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

Report of the auditor-general to Parliament on the State Security Agency

Report on the financial statements

Introduction

1. I have audited the financial statements of the State Security Agency set out on pages xx to xx, which comprise the statement of financial position as at 31 March 2015, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, as well as the notes, comprising a summary of significant accounting policies and other explanatory information.

Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-general's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with International Standards on Auditing. Those standards require that I comply with ethical requirements, and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

Basis for qualified opinion

High inherent risk due to the nature of the environment

6. The State Security Agency accounts for non-sensitive and sensitive project expenditure incurred in connection with the performance of the function and the duty of the Intelligence Services as defined in section 1 of the Intelligence Services Act, 2002 (Act 65 of 2002). The level of assurance that can be given by my audit on sensitive projects expenditure and assets included in notes 7 and 18 to the financial statements respectively, is lower than in the case of other audits due to the significant inherent risk relating to the sensitivity of the environment in which they are incurred and the manner in which they are recorded. This expenditure amounts to 9,6% of the 2014/15 financial year's total budget.

Qualified opinion

7. In my opinion, except for the possible effect of the matter described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the State Security Agency as at 31 March 2015 and its financial performance and cash flows for the year then ended, in accordance with the SA Standards of GRAP and the requirements of the PFMA.

Emphasis of matters

8. I draw attention to the matters below. My opinion is not modified in respect of these matters.

Claims against the department

9. With reference to note 33 to the financial statements, the department is opposing several claims instituted against it. The ultimate outcome of these matters cannot presently be determined and as a result no provision for any liability has been raised.

Restatement of corresponding figures

10. As disclosed in note 30 to the financial statements, the corresponding figures for 31 March 2014 have been restated as a result of an error discovered during the year ended 31 March 2015 in the financial statements of the SSA at, and for the year ended, 31 March 2014.

Additional matters

11. I draw attention to the matters below. My opinion is not modified in respect of these matters.

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Supplementary explanations of budget variances presented outside the financial statements

12. The supplementary explanations of budget variances contained in the appropriation statement do not form part of the financial statements. I have not audited these explanations and, accordingly, do not express an opinion thereon.

Report on other legal and regulatory requirements

13. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives for selected programmes presented in the annual performance report, compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

14. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information for the following selected programmes presented in the annual performance report of the State Security Agency for the year ended 31 March 2015:
- Programme 2: Domestic intelligence on pages xx to xx
 - Programme 3: Foreign intelligence on pages xx to xx.
15. I evaluated the reported performance information against the overall criteria of usefulness and reliability.
16. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned programmes. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant as required by the National Treasury's *Framework for managing programme performance information (FMPP)*.
17. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
18. The material findings in respect of the selected programmes are as follows:

Domestic intelligence

Usefulness of reported performance information

19. I did not raise any material findings on the usefulness of the reported performance information for the programme

100

Reliability of reported performance information

20. The FMPPi requires auditees to have appropriate systems to collect, collate, verify and store performance information to ensure valid, accurate and complete reporting of actual achievements against planned objectives, indicators and targets. Significantly important targets were not reliable when compared to the source information or evidence provided. This was due to a lack of documented system descriptions for the accurate recording of actual achievements, monitoring of the completeness of source documentation in support of actual achievements and frequent review of the validity of reported achievements against source.

Foreign intelligence

Usefulness and reliability of reported performance information

21. All material findings raised on the usefulness and reliability of the reported performance information for the programme were subsequently resolved.

Additional matter

22. I draw attention to the following matter:

Achievement of planned targets

23. Refer to the annual performance report on pages xx to xx and xx to xx for information on the achievement of the planned targets for the year. This information should be considered in the context of the material findings on the reliability of the reported performance information for the selected programmes reported in paragraphs xx to xx of this report.

Adjustment of material misstatements

24. I identified material misstatements in the annual performance report submitted for auditing on the reported performance information for programme 2: Domestic intelligence and programme: 3 Foreign intelligence. As management subsequently corrected only some of the misstatements, I raised material findings on the reliability of the reported performance information

Compliance with legislation

25. I performed procedures to obtain evidence that the department had complied with applicable legislation regarding financial matters, financial management and other related matters. My findings relating to material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA, are as follows:

Handwritten mark

Strategic planning and performance management

26. Specific and appropriate information systems to enable the department to monitor the progress made towards achieving the goals, targets and core objectives as indicated in the strategic and annual performance plan did not exist, in contravention of public service regulation part III B.1(f)(i)(ii).
27. Procedures for the facilitation of effective performance monitoring, evaluation and corrective action were not established as required by treasury regulation 5.3.1.

Expenditure management

26. Effective steps were not taken to prevent irregular expenditure, as prescribed by section 38(1)(c)(ii) of the PFMA and treasury regulation 9.1.1.

Internal control

29. I considered internal control relevant to my audit of the financial statements, the annual performance report and compliance with legislation. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for qualified opinion, the findings on the annual performance report and the findings on compliance with legislation included in this report.

Leadership

30. Processes and controls relating to the oversight and review of performance information need to be enhanced and strengthened. This will ensure that the annual performance report submitted for audit is accurate and complete.
31. The policies and procedures for travel and accommodation, including covert travel and accommodation, should be updated to prevent irregular expenditure due to inadequate procurement procedures.

Other reports

Investigations

32. As reported in the 2011-12 regularity audit report, an investigation was conducted into alleged fraud at Opmed. The matter was reported to the South African Police Service. Two former NIA/Opmed members were charged and found guilty in the Pretoria Specialised Commercial Court. The cases against other members and service providers are continuing.
33. An investigation was instituted after reports that transfers were made from NIA's account, within Momentum, to the account of a broker. This matter was reported to the Financial Services Board (FSB) and Financial Advisory and Intermediary Services (FAIS) for investigation. The investigation was completed and the matter was referred to the NPA and Hawks for further consideration.

12/12

34. An investigation was instituted at the Covert Support Unit. The deputy director-general: Operations, together with three other members, was suspended pending the outcome of the investigation. In December 2010 the director-general accepted the deputy director-general's resignation. The investigation is still ongoing.
35. The Inspector General is conducting an investigation at the request of the director-general. The investigation relates to operational expenditure transactions and is currently still in progress.

Auditor-General

Pretoria

17 September 2015



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

*Part 5 - Financial Performance*SPECIAL DEFENCE ACCOUNT
ANNUAL FINANCIAL STATEMENTS
for year ended 31 March 2015REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE SPECIAL
DEFENCE ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the financial statements of the Special Defence Account (SDA) set out on pages 360 to 387, which comprise the statement of financial position as at 31 March 2015, the statement of financial performance, statement of changes in net assets, cash flow statement and the statement of comparison of budget and actual amounts for the year then ended, as well as the notes, comprising a summary of significant accounting policies and other explanatory information.

Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-general's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with International Standards on Auditing. Those standards require that I comply with ethical requirements, and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

Basis for qualified opinion

Special defence activities

6. The special defence account accounts for non-sensitive and sensitive projects expenditure incurred in connection with special defence activities as per section 2(2)(a) of the Defence Special Account Act, 1974 (Act No. 8 of 1974), as amended. I was unable to obtain sufficient appropriate audit evidence regarding

Part 5 - Financial Performance**SPECIAL DEFENCE ACCOUNT
ANNUAL FINANCIAL STATEMENTS
for year ended 31 March 2015**

sensitive projects expenditure and related financial assets due to the sensitivity of the environment and the circumstances under which the related transactions are incurred and recorded. In addition, material classes of sensitive projects expenditure were not separately classified per nature as required by GRAP 1: *Presentation of financial statements*. I was unable to confirm the sensitive projects expenditure and financial assets by alternative means. Consequently, I was unable to determine whether any adjustments to sensitive projects expenditure stated at R874 844 000 in note 14 and financial assets stated at R89 395 000 in note 6 to the financial statements were necessary.

Qualified opinion

7. In my opinion, except for the possible effects of the sensitive activities described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Special Defence Account as at 31 March 2015 and its financial performance and cash flows for the year then ended, in accordance with GRAP and the requirements of the PFMA.

Emphasis of matters

8. I draw attention to the matters below. My opinion is not modified in respect of these matters.

Financial reporting framework

9. As disclosed in note 1.6.1 to the financial statements, the Minister of Finance has exempted the SDA from applying GRAP 6 and to instead apply GRAP 104 regarding some special defence activities due to the sensitive nature of the activities involved.

Significant uncertainties

10. With reference to note 18 to the financial statements, the SDA through the Department of Defence is a defendant in a certain lawsuit. The ultimate outcome of the matter cannot presently be determined and no provision for any liability that may result has been made in the financial statements.

Report on other legal and regulatory requirements

11. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives, compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

12. The objectives of the SDA are included within the Department of Defence's reporting on performance information against predetermined objectives.

Compliance with legislation

13. I performed procedures to obtain evidence that the SDA had complied with legislation regarding financial matters, financial management and other related matters. These procedures were however not extended to certain sensitive expenditure in connection with the special defence activities as per section 2(2)(e) of the

*Part 5 - Financial Performance*SPECIAL DEFENCE ACCOUNT
ANNUAL FINANCIAL STATEMENTS
for year ended 31 March 2016

Defence Special Account Act, 1974 (Act No. 6 of 1974) as amended. I did not identify any instances of material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA.

Internal control

14. I considered internal control relevant to my audit of the financial statements and compliance with legislation. I did not identify any significant deficiencies in internal control as the limitation imposed on the audit is inherent to the environment of Special Defence Account.

Auditor General

Pratoria
11 September 2015



AUDITOR GENERAL
SOUTH AFRICA

Accountant-General

JSCI PROGRAMME 2015-2016

DATE	ACTIVITY
22/04/2015	Closed Meeting
12/05/2015	Closed Meeting
26/05/2015	Closed Meeting
28/05/2015	Closed Meeting
02/06/2015	Closed Meeting
09/06/2015	Interviews for the appointment of Inspector General of Intelligence.
10/06/2015	Interviews for the appointment of Inspector General of Intelligence.
17/06/2015	Deliberations on the interviews for the appointment of Inspector General of Intelligence.
11/08/2015	Closed Meeting
01/09/2015	Closed Meeting
08/09/2015	Closed Meeting
13//10/2015	Closed Meeting
14/10/2015	Closed Meeting
15/10/2015	Closed Meeting
20/10/2015	Closed Meeting
27/10/2015	Closed Meeting
03/11/2015	Closed Meeting
10/11/2015	Closed Meeting
25/11/2015	Closed Meeting
24- 29 Jan 2016	Closed Meeting
16/02/2016	Closed Meeting
23/02/2016	Closed Meeting
01/03/2016	Closed Meeting
08/03/2016	Closed Meeting
15/03/2016	Closed Meeting
30/03/2016	Closed Meeting

National Assembly

1. Report of the Portfolio Committee on Human Settlements on oversight visit to KwaZulu-Natal, dated 29 November 2016

The Portfolio Committee on Human Settlements, having conducted an oversight visit to KwaZulu-Natal from 19 – 23 September 2016 in relation to the implementation of the human settlements strategic plans, projects and programmes, reports as follows:

1. Background

In terms of South Africa's Constitution of 1996 as well as parliamentary rules, the Portfolio Committee on Human Settlements has a responsibility to conduct oversight over any executive organ of state that falls within its portfolio. In line with this mandate, the Committee undertakes provincial oversight visits to evaluate progress and identify challenges encountered in respect of the implementation of programmes and projects. Furthermore, the Committee seeks to promote and enhance intergovernmental relations and co-operative governance principles in the delivery of human settlement services. To give effect to its strategic plan, the Committee conducted an oversight visit to the KwaZulu-Natal Province during the third term of the parliamentary programme, i.e. 19 – 23 September 2016.

2. Objectives of the visit

The objective of the visit was to conduct briefing sessions with the provincial department, eThekweni Metropolitan Municipality and the district municipalities (Umgungundlovu, Uthungulu and Ilembe) and other stakeholders in relation to the implementation of human settlement strategic plans, projects and programmes. In addition, the Committee recognised a need to conduct site visits. The focus was on the following key issues:

- Implementation of a comprehensive, integrated human settlements strategy in the province and the budget;
- Performance in meeting service delivery targets identified for 2015/16, as well as challenges encountered;
- Role of public and private sector in service delivery;
- Plans, programmes and service delivery targets for 2016/17;
- Number of informal settlements, the plan and the progress in upgrading such settlements, including Community Residential Units (CRUs);
- Implementation of Farm Worker Assistance Programme;
- Co-ordination and management of the beneficiary list and incorporation of backyard dwellers in the provincial housing database;
- Use of alternative technologies in construction.

3. Multiparty delegation

The delegation consisted of Hon N N Mafu (ANC) as leader of the delegation, Hon L Mnganga-Gcabashe (ANC), Hon HMZ Mmemezi (ANC), Hon LP Khoarai (ANC), Hon V Bam-Mugwanyanya (ANC), Hon T Gqada (DA), Hon M Gana (DA), Hon M Mokaase (EFF) and Hon KP Sithole (IFP).

The delegation was accompanied by Committee Support Staff: Ms K Pasiya-Mndende, (Committee Secretary); Mr S Mnguni, (Content Advisor); Mr S Makeleni, (Committee Assistant) and Mr T Gubula, Communications Officer.

The delegation was also accompanied by the officials from the national and provincial Department of Human Settlements: Mr W Jiyane, Acting Deputy Director-General – Stakeholder and Intergovernmental Relations; Ms N Mjwara, Deputy Director – Monitoring and Evaluation; Mr M Kraba, Director – Director-General’s office (Parliamentary Liaison Officer); Ms S Deputy Director – Stakeholder and Intergovernmental Relation

Coordinator; Mr S Watani, Parliamentary Liaison Officer (Deputy Minister's Office); Mr K Vilakazi, Chief Planner, Monitoring and Evaluation; Ms S Naidoo, Assistant Director – Programme and Project Planning; Mr N Mafumo, Town and Regional Planner (Programme Management Unit); Mr M Nefale, Town and Regional Planner (Planning Unit); Ms N Rozani, Deputy Director – Grant Management; Ms K Mngomezulu, Senior Administration Officer – Intergovernmental Relations Coordinator.

Officials from the provincial department

The delegation was accompanied by the Ms A Apelgren-Narkedien, Head of Department; Mr Zungu, Chief Operations Officer; Mr A Cele, Acting General Manager: Special Projects; Mr L Pato, General Manager: Sustainable Human Settlements; Ms R Soodeyal, Chief Director; Mr T E Magagula, Director; Ms N Q Chiluvane, General Manager, Social Housing and Property Management; Mr T Magagula, Senior Manager Inland Region (Uthungulu District); Mr N Dhooma, Senior Manager: (Ilembe, Uthungulu and eThekweni District); Mr P Woolf, Senior Manager, Planning; Mr S Sibiyi, Senior Manager: Communications; Mr S Mthembu, Geography Information System; Ms N Ndlovu, Deputy Manager: Intergovernmental Relations; Ms N Ndlovu, Personal Assistant: Sustainable Human Settlements; Ms M Mhlongo, Executive Assistant: Chief Operations Officer; Ms B Zungu, Senior Administrator: General Admin and Auxiliary Services, Ms N Madlala, Deputy Manager: Head of Department's office; Ms A Dlamini, Personal Assistant Head of Department's office.

4. Overall summary of the oversight visit

The delegation visited three districts municipalities (Umgungundlovu, Ilembe and Uthungulu) and the eThekweni Metropolitan Municipality. The delegation was welcomed by the political leadership in the province and it received a briefing from the provincial Department of Human Settlements and Public Works, where the state of delivery performance, targets set and

the funding was outlined. The performance for each human settlements programme and challenges were discussed.

In Umgungundlovu – later known as King Cetshwayo, the delegation firstly visited Westgate housing project which was performing optimally, however there were challenges associate with infrastructure connections. Secondly, it visited the Wirewall rectification project. The project commenced around 2008, but poor workmanship was sighted as a challenge. In addition, some original beneficiaries were no longer residing in the provided houses. Those who were residing were paying rent. Some were moved to transit camp as a temporary housing solution, however, it was reported that some beneficiaries still remain in transit camps. Lastly, the delegation visited the Mshwati slum clearance project. There were no major challenges noted in this project.

In Ilembe district municipality, the delegation received a briefing in KwaDukuza Local Municipality regarding the status and the overview of the district and the projects. The district reported that it was challenged by the scarcity of appropriate land for human settlements. Some pieces of land were reported to be illegally occupied or invaded whilst there was no land for cemetery. The delegation visited projects that were underway during the time of the oversight visit. These projects include the Mathontsi Phase 2, Sakhamakhaya rural project, and Steve Biko Urban Renewal project. The delegation observed that there was no bulk infrastructure in the projects visited in KwaDukuza Local Municipality.

In Umgungundlovu District Municipality, the delegation met at Umlalazi Local Municipality and received the overview of the district and presentation on the projects to be visited. The delegation visited Aquadene; Thubalethu Extension Housing and Uyaya housing projects. In Thubalethu, the delegation was informed that there was shortage of appropriate land for human settlements. In Uyaya rural housing project the delegation was concerned about the type of roofing used (corrugated iron) which was assumed to be prone to lightning and causing disaster.

In eThekweni Metropolitan Municipality it was reported that the municipality experienced specific challenges that hinder the implementation of human settlements strategy. These challenges included: high levels of urbanisation; challenging topography; lack of bulk infrastructure; land invasions and house vandalism; lack of maintenance of social housing and Community Residential Units (CRUs) and poor delivery in relation the Finance Linked Individual Subsidy Programme (FLISP).

5. Overview of meetings and site visits

5.1 Meeting with the MEC, provincial Department of Human Settlements and Public Works in Umsunduzi Local Municipality Chambers

The Mayor welcomed the delegation.

The Chairperson of the Portfolio Committee on Human Settlements and a leader of the delegation summarised the objectives of the visit. She informed the meeting that Parliament has a Constitutional Mandate to oversee the work executed by government departments. In the main, to oversee the funding appropriated to the department during budget period, to achieve the objective set out in section two of this report. She stressed that the (act) of visiting the province was not intended to police or intimidate the executive. However, this was intended to assist the province in their human settlements initiatives. In addition, to ascertain whether the legislation that Parliament passed were implementable.

The Member of Executive Committee (MEC) informed the delegation that there was a significant improvement in the housing delivery in 2011, and he was pleased with that. This was as a result of a strong project pipelining in the province. He stated that the province was then challenged by budget constraints which had a direct impact on project pipeline. There were delays in the installation of bulk infrastructure services. The Environmental Impact

Assessment (EIA) also hindered some projects as it took time for them to assess the habitability of the land. There were social unrest especially in the urban areas that required political intervention. He further informed the delegation that the Urban Settlements Development Grant (USDG) was allocated to the eThekweni metropolitan municipality but there were issues in the utilisation of this grant.

He reported that the allocation of beneficiaries to the housing project was to be centrally managed by the national department. This was due to mismanagement of the allocation, favoritism and corruption in the allocation process. He further reported that the rural housing development was running smoothly as there were no challenges in building where people lived. With regards to social housing, he stated that there was a need to do more as the housing demand was growing rapidly, especially in the metropolitan and fast growing municipalities. In relation to the Finance Linked Individual Programme (FLISP), which seeks to address the housing challenge for people in the gap 'housing market', there was a challenge with the prospective beneficiaries. Most were blacklisted and banks were unwilling to assist. In addition, there was a lack of awareness of the programme.

He informed the delegation that there was huge backlog in the rectification programme. This needed an agent attention as it was causing community dissatisfaction. The provincial department did not do well in the issuing of title deeds, even though there were funds set aside specifically for this programme. The non-payment of rent was a problem. This was because most people living in CRUs were either unemployed or were dependent on social-welfare grant for their livelihoods.

5.1.1 Presentation by Head of Department (HOD) of Human Settlements

The Head of Department (HOD) had tendered an apology due to death in her family. The Chief Operation Officer (COO) presented on her behalf. The presentation covered the following key issues in the province:

- **Performance in meeting service delivery targets identified for 2015/16, budget as well as and challenges encountered**

The department reported that it has spent R1.741 billion of the projections of R1 768 billion as at 31 August 2016. In the Human Settlements Development Grant (HSDG), an amount of R1 575 billion was spent out of 1 621 billion. The department reported that it has spent R165.7 million of the projects. It was further reported that an amount of R347 was spent on the Extended Public Works Programme (EPWP) of the projection of R2 982 million.

The department reported a net under spending of R26 888 million as at the 31 August 2016 which was made of the following:

- HSDG under spent by R46.356 million which was due to slow spending on projects which were earmarked to be spent and there was some delays in the spending. The department planned to spend this variance in the next coming months;
- Equitable Share over spent its allocation by R22.103 mainly due to the payment of voluntary severance packages of 43 officials as well as some of Government Employee Pension Fund (GEPF) claims received. The department earmarked to cover over expenditure on budget allocated for salary related items for the officials;
- EPWP underspent by R2.635 million due to the delay in the receiving claims for plastering for Bhekumthetho Housing Project which would be processed in the month of September 2016;
- Accumulatively the department should spent 42% which is the bench mark percentage as at 31 August. The department has spent 50% which is above the bench mark percentage.
- District, Programme and Responsibility Managers were strictly monitoring their expenditure and also to fast tracking all outstanding claims;
- Department was ensuring that all cost-cutting measures were stringently implemented.

- **Progress made on the Outcome**

Labels	Sum APR- JUL Target sites	Sum APR- JUL Actual sites	Sum APR- JUL Target units	Sum APR- JUL Target units	Sum of APR-JUL target transferred	Sum of APR- JUL target transferred
Financial Intervention						
3a land parcels procured	0	0	0	0	0	0
FLISP (R3 501- R15 000)	510	0	132	94	642	94
Incremental Intervention						
IRDP: Phase 2 top structure	950	386	994	552	461	164
Informal settlements upgrading	1 521	895	1 649	324	1 378	0
PHP (Informal Settlements Upgrading)	20	0	1 053	1 198	190	0
Social and Rental Intervention						
Institutional Subsidies	0	0	10	39	0	0
CRUs – Construction	0	0	0	0	0	0
CRUs – Upgrades	0	0	0	0	0	0
Total	3 001	1 281	3 838	2 207	2 671	258

Role of public and private sector in service delivery

The department reported that the Minister of Human Settlements, in her Budget Speech, directed that provinces should partner with the private sector and large employers to assist where finance was a challenge for the 'Gap Market'. To this end, the province was in the process of creating an Employer's Forum of large Companies and or employers who were prepared to assist to subsidise their employees, in partnership with government FLISP, in the same manner that the Mining Companies do. The reason was that the Mining Charter prescribed the housing assistance by Mining Companies. The initiative was receiving positive response from the private sector and the provincial department was developing the Employer Plan, which would not be prescriptive, but a way to draw in the Private Sector contribution in partnership with government. The provincial department was partnering on this programme with the Genesis Corporate Trust, which has extensive experience and success in facilitating the provision of affordable housing and services for employees of commerce and industry. The initiative was hugely successful; growing to over 53 major Corporates nationally, involving all five Financial Institutions in project funding and Training of over 10,000 employees in Home ownership education.

The project excelled ten (10) years ago, under Genesis, as it incorporated a land and infrastructure development component, a finance and educational component and finally a research (waiting list assembly) sales and project management component empowering small emerging builders. The project was unable to meet the demands and with no subsidy instrument in place with government, was unable to be sustainable. Genesis also ran programmes on Community Banking with Co-operative management systems for women and youth in housing, job creation and faith based incubator initiatives. The Minister announced earlier this year at a workshop that such partnerships with developers and contractors were integral to Human Settlements meeting its targets.

She also confirmed the delegation that funding was ring-fenced and set aside nationally for women contractors. Hence the partnership with Genesis was to assist in reviving the initial programmes in private sector that were aligned to the MSDG currently. No funding would be required from the department, only support and endorsement of the initiative and with the positive effect of increasing our ability to increase FLISP subsidy delivery. Genesis Corporate Trust was in discussions with Tongaat Hulletts Devco to partner on the Employers Forum as part of CSR, due to Tongaat Hulletts being a large employer and land owner and developer in the province. Tongaat Hulletts have requested market research from 20/20 Consulting to inform the practice and methodology.

- **Plans, programmes and service delivery targets for 2016/17**

The strategic objectives identified with the KwaZulu-Natal Human Settlement Strategic Plan were as follows:

- Ensure the financial viability of the Department;
- Implement projects that ensure spatial, social and economic integration;
- Accelerate the clearance of Slums and outcome 8 projects;
- Accelerate the creation of rental housing opportunities and implement projects that ensure spatial, social and economic integration;
- Improve access to tenure;

The 2011 census data distinguishes between eleven (11) different housing categories under the variable referred to as “type of dwelling”. The categories that can potentially be regarded as forming part of the housing backlog or demand at a particular location include the following three types:

- informal dwellings located in informal settlements or farms;
- in formal dwellings in backyards;
- traditional dwellings or huts constructed of traditional materials;
 - The total number of informal dwellings in informal settlements is estimated at approximately 149,000;

- The number of informal dwellings in backyards as 62,658;
- This implies a total potential housing backlog represented by households residing in informal structures of 211,547;
- The total number of households in the province that are residing in traditional dwellings was a very high figure of 483,296.

When combining these traditional housing structures with the informal structures it yielded a potential housing demand in the order of 695 000. However not all these traditional dwellings constructed of traditional material could be regarded as representing inadequate shelter thus considered part of the housing backlog.

As a crude measure of the level of adequacy provided by this housing category, it was cross tabulated with the number of rooms available in these type of structures. It was assumed that all traditional dwellings constructed of traditional materials and consisting of two rooms or less represents inadequate shelter and could thus potentially be regarded as part of the housing demand or backlog. A total of just under 160,000 of the traditional housing structures in the province falls in this category, and represents 33% of the total number of traditional dwellings in the province. When using this figure together with the total number of informal structures it translates into a housing demand of approximately 371,208 units.

- **Strategies in relation to the rectification programme;**

The acting Head of Department (HOD) reported that there was a need for province to re-assess the rectification projects in terms of classification. The rectification programme had a huge challenge in the province, especially the pre-1994 and post 1994 20m² units. The non-performance of contractors in these projects was also a problem.

- **Number of informal settlements, the plan and the progress in upgrading such settlements, including Community Residential Units (CRUs);**

It was reported that there were 28 hostels in the province. There were close to eleven (11) hostels in the eThekweni Metropolitan Municipality. The City had plans in place to rehabilitate and/or upgrading the hostels through the CRU Programme. The main challenge relates to limited funding and as such the Programme stretches to ten (10) from then until all the hostels were either refurbished and/or upgraded. Lack of Housing Consumer Education leading to poor management of CRUs. It was reported that the Province engaging in awareness on the FLISP Programme. The province was implementing the FLISP at a small scale and that most of these projects are successful. There was also a challenge relating to qualifying criteria and the banks were not keen to come on board.

- **Implementation of Farm Worker Assistance Programme (Fordoun Project)**

The Fordoun Staff Housing Project which was approved for 18 subsidies. The project was a public-private-partnership between the KZN Department of Human Settlements and Public Works and the Fordoun Development Company (PTY) Ltd undertaken in terms of Farm Workers Housing Programme. Families assisted through this project have a long descendant line on the farm Fordoun, which dates back to the early 1990's when the land was owned by Lady Usher. The uMngeni Municipality supported the project and the project complied with the Spatial Development Framework (SDF) and the Integrated of the municipality.

The project had been completed and all the approved funding of R1794 799 had been expended. The Department of Rural Development and Land Reform had acquired land to the value of R500 00 00 and the uMngeni Municipality had contributed R30 590.00 for the installation of bulk transformer to serve the project. The Fordoun Development Company funded the difference of R2 233 550. The project had individual flush toilet into a prefabricated septic tank and soak away, roads were graveled, storm water drainage, metered water to each house and the electrification to each house.

- **Co-ordination and management of the beneficiary list and incorporation of backyard dwellers in the provincial housing database;**

The National Department of Human Settlements initiated the establishment of a National Housing Needs Register (NHNR) in 2010 which was based on the expanded National Housing Programmes. The new housing programmes required a new approach to the management of waiting lists and the way in which housing opportunities created by organs of the State were to be allocated. This resulted in the development of the NHNR to ensure that there was a proper establishment of needs register for housing and a fair allocation of housing opportunities. The implementation of the National Allocation Policy and the draft Provincial Guidelines were supported by the use of the housing needs register.

To conceptualize this initiative, KZN Human Settlements and Public Works has embarked on an effort to pilot the implementation of the NHNR at nine (9) municipalities in KwaZulu-Natal. These were, Hibiscus Coast, Emnambithi, Ladysmith, eThekwini, KwaDukuza, uMhlathuze, uMngeni, eDumbe, Msunduzi and Newcastle. Due to the lack of financial and human resources in these municipalities, service providers were appointed to undertake the implementation over a 12 month period.

An extensive public consultation campaign was undertaken in 2015/16 inviting comment on the proposed implementation of the NHNR in the province. To enhance this initiative, the Department had commenced with consultations with the non-participating municipalities in anticipation of the roll out of the NHNR throughout the province during the ensuing financial years. The NHNR would enable provinces and municipalities to obtain a better understanding of the housing demand and backlogs in their respective areas, as well provide a single source of information that would be used as a planning, information, research and budgeting tool for service delivery. Housing delivery would be based on actual demands and allocations done

through a single authentic, transparent and auditable process. This would minimize corruption and queue jumping opportunities. This was because, the National Housing Needs register allows for the details of households living in a backyard structure to be captured as part of the household information when registering their need.

- **Use of alternative technologies in construction**

There was no report on utilisation of alternative technologies in the province. However, the Committee observed the utilisation of alternative technologies in Vulindlela and Cornubia project.

Deliberation and interaction on the presentation

Members of the delegation raised a number of concerns and questions following the presentations:

- Clarity was sought on the number of projects that were blocked and the plans to unblock them. The delegation wanted to know the number of informal settlements that were due for upgrading during the financial year and whether there was land available for that purpose. The report on the eradication of bucket system was requested as was part of the mandate of the Department of Human Settlements before this function was removed from it (the Department);
- There was huge backlog on rectification and clarity was sought on how this programme was funded. The delegation enquired on the programmes in place to build capacity for the municipality as it was alleged that there was inadequate capacity;
- The delegation enquired as to what was the relationship between the provincial department and the Housing Development Agency (HDA) with regards to land identification and acquisition. The progress

report on the restoration and issuing of title deeds was requested to be made available as the department reported that it was not doing well.

Responses by the provincial department

- The MEC informed the delegation that the issuing of title deeds was a challenge in the province. He further stated that the province was the first province with the high number of title deeds still to be issued out to beneficiaries, and most were from pre-1994. The provincial backlog on title deeds was standing at 150 185 (127 479 pre-1994 and 23 336 post 1994). There were a number of challenges hampering the process to fast-track the issuing out of title deeds. The MEC reported that the province was working very closely with the Estate Agency Affairs Board to fast-track the process of issuing title deeds immediately after the house has been handed over and occupied;
- With regards to the informal settlements upgrading programme, the province was second nationally (Gauteng first) with a huge number of informal settlements and the number was gradually growing. Most of the informal settlements were within the eThekweni Municipality. It was reported that 100% of all the informal settlements have Level 1 services with the rural areas having some level of basic services. The municipality had a successful roll-out program to service almost all of the informal settlements. It was further reported that 90% of the informal settlements within informal settlements had water, sanitation, access and lightings. Both Province and the City had plans in place to deal with the informal settlements. National to ensure that all the plans/strategies highlighted to deal with the challenge were implemented.

5.2 Site visits

5.2.1 Site visit to Vulindlela Rural

The project forms part of the Integrated Development Plan (IDP) of the Msunduzi Municipality and the community as a Section 21 Company known as Vulindlela Development Association (VDA). The VDA consists of 5 local Amakhosi as the members of the Section 21 Company undertook the development using EPHP Policy route. The project expands over 9 wards (Wards 1 to 9) involving 24,455 hectares of land; approximately 136,615 residents, and 25,000 households.

The objectives of the Vulindlela EPHP project was to achieve maximum economic benefit for the greater Vulindlela community through: implementation and management of the project through community organisations and structures; create a self-sustainable community; ensure local entrepreneurial; and employment opportunities were created through the housing development value chain. To target the unemployed youth in the community preferable semi-skilled (vulnerable groups). Job creation was as follows: 1832 full time employment opportunities were created for previously unemployed community members; 13 community owned registered Co-operatives were created, 34 community based Co-operative Members in total (Owners), out of the 34 members 18 were youth members, 10 local enterprise SMME's, average monthly salary, wages and co-operative income of R6 million directly to community per month, on site skills transfer during construction programme. In addition, 9 registered Co-operatives comprising of 106 individual members undertook all stages of construction, 37 on-site civil engineering student technicians from Durban University of Technology and FET colleges were trained and guided by VDA professional engineers, 200 trainees drawn from the community were trained in basic building skills to provide a pool of semi-skilled labour, 45 in-service trainees drawn from the towns surrounding Pietermaritzburg were trained in practical skills, on the job training provided for labour and co-operative members on an on-going basis.

The Amakhosi appointed the Technical and Financial CROs to provide the necessary support to undertake the development. The KZN Department of Human Settlements approved the project, and concluded the contract with VDA on the 29th March 2011 for 25,000 rural housing units to the approximate value of R2, 1 billion. The development was to be undertaken over a period of seven years with approximately 4, 000 houses to be constructed annually. VDA has implemented a Co-operative business model, whereby the majority of construction activities were undertaken by community based Co-operatives. VDA business was managed by its Board and management team. Board comprised of community leaders (5 Amakhosi, 1 Senior Induna and an Advocate), two project manager, CEO and CFO. Technical and commercial aspects including planning, construction activities, professional services, administration and procurement were monitored by DEZZO Development Holdings (Project Managers).

The disbursement of the National Department of Human Settlements funds and construction performance reporting to the Department was undertaken by NURCHA. Vulindela EPHP Project was undertaken by youth cooperatives in partnership with the VDA, NURCHA and DEZZO (Technical Assistance). Forged partnerships with human settlements institutions in order to ensure mentorships, coaching and learnership, coaching and leadership for youth and women programmes. With regards to social impact, the project provided approximately 2000 jobs, entrepreneurial business management opportunities through the creation of Co-Operatives, including 106 members generate and average of R12 000 each p/m), purchasing of large volumes of local raw materials were rejuvenated local building sector, skills development and training, residents previously divided by violence now work together to house communities, residents displaced by violence were housed, and community pride was restored.

5.2.2 Site visit to Umshwati slums

The project was approved for 3000 subsidies. UMshwati Municipality had prioritised the Integrated Development Plan (IDP) and the project also contributed to the slum clearance of the municipality. Dezzo Development Holdings (PTY) Ltd was appointed as an implementing agent to package, construct all the service and 1400 houses. The appointment of the service provider to undertake the construction of the remaining 1600 houses was not yet finalised.

The projected cost of the project was R32 180 000, total expenditure was at R17 271 520. The project would have full waterborne sanitation, the roads would be concrete, metered water to each house, and prepaid electricity. There were not targets set for beneficiary administration, however it was stated that the beneficiaries were delinked from site numbers.

5.2.3 Site visit to Westgate Social Housing

Westgate Grange Social Housing was the rental accommodation which would address the critical rental needs in the Umsunduzi municipality. It aims to improve the lives of the people by providing them with proper rental accommodation which was affordable and restores their dignity whilst at the same time addressing Outcomes 8 targets. The mandate of the Department of Human Settlements was to provide Social housing rental accommodation (952 rental units). As a department an amount of R96, 280,520.00 was approved for the project.

Due to the high demand of the rental accommodation within Umsunduzi area, the Department conducted a social survey which informed the necessity of social housing as it is their mandate to provide rental housing to people earning above the CRU income threshold.

Challenges in Westgate Social Housing

There were numerous protests by local labourers and local contractors demanding exorbitant rates, however due to the engagement with them and the department as well as the Social Housing Institutions (SHI) the matter was resolved amicably and the project is progressing well thus far. The municipality was demanding a new electrical substation which was not on the original agreement. This would have an impact on the project cost. The department and the SHI were currently having discussion with Umsunduzi Municipality to solve the problem amicably.

5.2.4 Site visit to Wirewall Housing project

The rectification programme was approved for 2086 houses built using wire-wall technology to the value of R90 838 178. The Department of Human Settlements appointed Masiqhame Trading 379 CC to rectify those structures. However, Masiqhame left the project unfinished. As a result, a different contractor, Fairfield, was appointed as an implementing agent. During the oversight visit, the contractor was on site.

The units were double storey houses with individual access. The delegation was informed that the units that were in dilapidating stage, the beneficiaries were taken to transit camp while refurbishing their units. Some occupants told the delegation that they were not the owners of the units but were renting R850 to 'someone called the owner since 2008'. The provincial and national government officials were tasked to conduct occupancy audit of the Wirewall residents and submit the report to the Committee by end of November 2016. There were also some community members who claimed to be the steering committee of Wirewall, the delegation requested them to liaison their challenges with the Chief Operations Officer – provincial Department of Human Settlement, and they were advised to call the Committee if they were not pleased by the response from the provincial department.

6. Meeting with the Ilembe District Municipality - Overview of presentation (KwaDukuza Town Hall)

The Mayor of Umsunduzi Local Municipality welcomed the delegation and was encouraged that the delegation would deal with 'budgets cuts' in the province. This was important because budgets cuts translated to limited service delivery, which subsequently results in community demonstrations, within the Municipality. However, it was indicated that the oversight visit was symbolic because it coincides with the 200 year the establishment of the Zulu Nation. Furthermore, the municipality was experiencing high levels of immigration, increasing the housing demand. Therefore, it was difficult to keep up with the housing demand.

The Chairperson of the Provincial Committee on Human Settlements apologised for not joining the delegation on the first day. However, he stated that the objectives of the legislators was to hold government accountable in order to ascertain if the voted funds were utilized optimally.

Presentation on human settlements delivery in Ilembe District

The General Manager presented the overview of the Ilembe District Municipality. This overview focused the performance delivery, budget and challenges. He also presented the project profile for projects to be visited. Ilembe District constituted by 4 Local Municipalities including Mandeni, KwaDukuza, Ndwendwe and Maphumulo. The Ilembe District Municipality lies on the east coast of Kwa-Zulu Natal, between eThekweni Metro in the south and uThungulu District in the North. Ilembe was the smallest of the 10 KZN Municipalities with a total population of approximately 606, 809.

Deliberations and interactions on the presentation

Members of the delegation raised a number of concerns and questions and clarity seeking questions as indicated below:

- Sought clarity on what kind of services that were provided in the upgrading of informal settlements;

- The delegation alleged that the MEC had intervened but even then, there was no improvement in service delivery. Clarity was sought on the plans for traditional houses;
- The delegation sought clarity on the plans from the municipality to assist with the provision of land for cemeteries.

6.1 Site visit to Inyoni Slums IRDP - Phase 1 (254 sites) and phase 2 (356 sites)

The project was on its initial stage. The installation of services was underway and houses construction was going to commence, with civil work in phase one (1), two (2) and three (3) having achieved practical completion in August 2016, and list issues being finalised. However, project programme was affected by the following challenges:

Challenges in Inyoni Slums Clearance Project

Two Civils contractors terminated due to poor performance and subsequent liquidation, hence completion of civil work on Phase 1 and 2 were delayed. This subsequently delayed the completion and handover of houses. The Phase 3 civil contractor was issued with variation order to complete Phase 1 and 2 civil work and has now achieved practical completion. Snags were attended to 124 houses in Phase 1 handed over. Due to the interference by the Project Steering Committee (PSC) to the development, the PSC was dissolved and new PSC and CLO have been formed/elected.

6.2 Site visit to Steve Biko Phase 2 ISU

Construction recently commenced with site established and contractors were busy with slabs. The project was reduced to 881 sites as a first phase, tranche two (2) and three (3) addendum concluded on 08 June 2016. In addition, phase 2 for 147 sites was to be submitted once all outstanding

properties were acquired by KDM. House Plan have been approved by PSC and the Community. WULA application was underway.

6.3 Site visit to Sakamakhaya ISU

Sakhamakhaya was an informal settlement upgrade project, with 2224 subsidies. The project commenced in 2009 with the aim of finishing in February 2018. It was reported that it was under construction. There were zero serviced sites, one (1) show house which was built and handed over. The total value of the project was R322 216.808 and the funds spent by the time of the visit was R 10 027 095.

Contractors was appointed and GCC contract was signed between Municipality and contractor. Two contractors were appointed to execute this project. Both contractors were terminated by KDM due to poor performance. However, these two (2) contractors took legal actions against KDM. As a results of that KwaDukuza engaged with another contractor working at Sokesimbone project work on Sakhamakhaya. This was because KDM was unable to appoint another contractor until legal battle was resolved.

Challenges in Sakhamakhaya Housing Project

Poor performance by first two (2) contractors which led to the project delays. However, the third contractor was appointed and work commenced. There was a general practice of inflating the prices of construction material and labour. However, the province strictly uses the housing code spark. There was an issue associated with “cultural connection” to a homestead and relocation. It was expressed that the project was slow because people were reluctant to be moved from their homestead. There problem was the “housing spark”. Some houses were electrified, while others were not. Some houses were plastered; some were not.

6.4 Site visit to KwaMathonsi Sundumbili Phase 2

It was reported that there were 394 slabs, wall plate, 322 and completion were 265. Planning and design were completed and submission for Stage 2 funding for construction of houses approved by MEC. Addendum concluded on the 7 July 2015, programme as approved by MEC reflects a 36 month programme at 28 houses per month. Construction was underway. Each household was allocated a house. Assessments were conducted only all houses to identify the needy and destitute. Challenges in KwaMathonsi/Sundumbili Phase 2

Challenges in KwaMathonsi Sundumbili Phase 2

The municipality alerted the Department to allegations of corruption in allocation in KwaMathonsi Sundumbili Phase1. Houses allocated to beneficiaries were not electrified.

7. Meeting with Uthungulu District Municipality renamed as King Cetshwayo District

The Mayor welcomed everyone present at the Uthungulu District Municipality. He indicated that human settlements initiatives were governed by Integrated Urban Development Framework (IUDF) that prioritises the following: integrated spatial planning, integrated transport and mobility, integrated and sustainable human settlements, integrated urban infrastructure, efficient and governance and management, empowered active communities, effective urban governance. However, the Mayor indicated the following challenges: poor coordination and non-alignment of policy and planning frameworks; lack of capacity in local government to perform the developmental function; the unavailability and supply of well-located land; the continued sprawling of settlements and informal settlements; land and development costs; slow delivery of the land reform process; and difficulties in aligning land use planning and management systems.

Land appropriate for human settlements development was a persisting problem in the province. Vast portions of the province were made up of Traditional Authority Land, approximately 70% of the uThungulu District Municipality and 63% of the iLembe District Municipality was made up of land under the control of traditional Authorities. More than 90% of human settlements within the uMkhanyakude were classified as Tribal areas and approximately 80% of the uThungulu District Municipality. The housing challenge in the province was also compounded by the emergence of informal settlements, especially in cities and towns. The total number of informal settlements was estimated at approximately 149, 000, and the number of informal dwellings in backyards was approximately 62, 658. This implies a total potential housing backlog represented by households residing in informal structures of 211, 547. This was further compounded by the provincial population which increased by 11.8% between 1996 and 2001, which has a direct correlation with the housing demand. A total of 54.8% of the total provincial housing demand and 44.2% of all known housing projects since 1994 were located in municipalities that were experiencing high levels of positive net migration between 2001 and 2011.

More than 50% of the potential provincial housing demand was located in areas characterised by unemployment rate. Approximately 71% of the unemployed population in the province was highly concentrated within the eThekweni city region and two cities of uMgungundlovu and uMhlatuze in the province. These three municipalities were estimated to jointly account for approximately 72.5% of the total provincial GVA.

7.1 Site visit to Ngudwini project

Ngudwini was a rural housing project which was at construction stage during the time of the visit. There were 54 units completed out of the 1000 units that were planned. The total value of the project was R89 463 75 of which the amount of R7 423 141 was already spent on the completed units. The implementing agent which was appointed for the project was Inprodev.

7.2 Site visit to KwaBhejane

KwaBhejane rural housing project was on stage two of construction and 1200 units were completed. The total value of the project was R103 662 622. The implementing agent appointed was Thokozi Developments.

7.3 Site visit to Aquadene

The project was an IRDP project targeting 2194 beneficiaries. The budget allocation was R7 298 535, however, during the time of the visit the money was not spent as the project was at planning and packaging stage. The appointed implementing agent was Projecon CC. The internal services designs were at 90% complete.

7.4 Site visit to eMpangeni Catalyst

The project was an IRDP project with approximately 8350 sites and beneficiaries. The budget allocation of the project was R25 000 000 which was not spent during the time of the visit. The delegation was informed that the project was still at the planning and packaging stage. The internal services designs were at 90% completion. The appointed implementing agent was Waterstone Country Estate. The project would consist of RDP which will be 30%, FLISP would be 30%, Social Housing 20% and bonded would be 20%.

7.5 Uyaya Rural Housing

The project was a rural housing project aiming at delivering 1000 units. Siqu Civils was appointed to construct the units. An amount of R85 841 717 was set aside for this project. The construction was progressing optimally.

During the time of the visit, there were 869 completed units, two bed-roomed houses with open lounge and kitchen. The water tank was installed to harvest rain water. The roofing was made of the corrugated iron. The delegation was concerned about this kind of a roof, stating that lightning was a challenge in the area. Most of the time that kind of a roof was alleged to be attracting lightning and caused accidents that end up a danger to the community.

The delegation was advised that the Department of Cooperative Government and Traditional Affairs had initiated an installation of light absorbers and was going to install to each home.

7.6 Thubalethu Extension Housing Project

The project was at initial stage. The implementing agent appointed for the project was ground works Project Management. The provision of bulk infrastructure was underway. An amount of R3 833 880 was set aside for the construction of the project. During the visit, an amount of R1 182 136 was already been spent. The project was going to yield 1120 units and 413 beneficiaries were already approved. The municipality reported that there was a challenge of lack of land.

8 Meeting with the eThekweni Metropolitan Municipality

The presentation was aimed at unpacking challenges that impair the implementation of human settlements strategy in the metropolitan municipality. The presentation was outlined as follows:

- **Urbanisation** – this was a huge challenge the City. As a result, the City requests the Portfolio Committee to assist the province in accessing government owned buildings as part of a drive towards Inner City Development;

- **Topography-** KZN poses a huge challenge as well as soil condition in some areas in the Province. This state of affairs necessitates that informal settlements upgrading in places such as Lamontville had to be provided with extra funding for building projects;
- **Budgetary constraints-** this issue was associated with budget cuts that often results in projects being blocked or stalled;
- **Provision of bulk infrastructure is one of the key challenges impacting on the delivery of service in the Province.** Misalignment in terms of Planning (due to lack of infrastructure), and Budget allocations not aligned between Province and Municipality;
- **Land invasions** – this was evident in people refusing to be relocated to other areas in cases where they have occupied unsuitable land for human settlements and habitation;
- **Refusal to pay rent within the Social Housing projects and Community Residential Units (CRUs)** – this was a problem because, in theory, rentals would be use to ensure the maintenance and up-keeping of this type of housing stock. In relation to CRUs, there were problems with the “day-to-day management of CRUS or hostels;
- **Delivery of FLISP -** Province highlighted the private Sector was the main vehicle that can assist in the delivery of the Programme’s MTSF’s targets;

8.1 Site visit to Cornubia1B project

Cornubia was a national priority project, endorsed by both the provincial and national government. The project was a joint venture between the provincial and national Department of Human Settlements, eThekweni

Municipality and Tongaat Hulets Development. The 1300 hectares of green-field land would deliver mixed use, mixed income development, incorporating industrial, commercial, residential, open spaces over a period of 15 – 20 years. During the time of the visit, the work was underway in Cornubia South, approximately 28 000 units were planned of which 15 600 were subsidized units.

It was reported that Cornubia North was expected to yield 25 000 units at a later stage. A range of housing typology would be delivered using various housing instruments, from IRDP, social, FLISP and middle income housing. It was further reported that the Cornubia project was about creating Sustainable Human Settlements and an improved Household Life (Outcomes 8 targets). Project phases were reported as follows:

- It was reported that Phase 1 (1A and 1B) was going to yield 2668 Breaking New Ground units. It was further reported that Phase 1A with 482 fully serviced units were completed and occupied and transfers to be effected by March 2017;
- Phase 1B would consist of 2186 subsidised units, six contractors were on site and services were 97%. The progress was as follows: foundations – 1554; wall plate – 983; roofs – 942; handed over – 465. The project was aimed to be completed by March 2017;
- Phase 2 would consist of 13 000 subsidised sites which were in planning process and will deliver range of typologies.
- Future phase 3 – was reported to be on early concept stages as land was still to be acquired.

The stakeholder contribution was as follows:

- eThekweni owned land R10.4 billion;
- Tongaat-Hulett owned land R14.3 billion;
- South African Sugar Association owned land was R1.1 billion.

The total development cost R25.8 billion.

Challenges in Cornubia 1B project

The project was hindered by poor ground conditions, resulting in increased spoil and increased cost. The compliance to bylaws over and above norms and standards, resulted in funding shortfall, such as gutters and downpipes. As a result, special funding was made available by the national department. Regarding roads, an agreement was reached between the Department of Transport, SANRAL and eThekweni Municipality. Lengthy procurement process also has a negative on the project. It was reported that cost of the unit would be much higher than subsidy quantum due to densification. Social facilitation and capacity building of the communities was also a challenge.

8.2 Site visit to Glebelands Community Residential Unit (CRU)

Glebelands CRU was the rental accommodation which would address the critical rental needs in the area of Umlazi. It aimed to improve the lives of the people by providing them with proper rental accommodation which was affordable and restores their dignity whilst at the same time meeting the department's deliverables. The mandate of the Department of Human Settlements was to provide Community Rental Unit accommodation (32 rental units). Funds were transferred to the eThekweni Municipality for the purpose of converting hostels into Community residential units.

Old structures, including those of block Chairman, were disbanded. Perimeter fencing was completed at an estimated cost of 10 million. Access control was installed to ensure security of tenants. Family units were constructed and delivered in 15/16 financial year and units were occupied. The process of electing new CRU committee had not commenced. The signing of Peace Agreement by various stakeholders was concluded. The legal tenant's information was updated and linked to the new access control system that was provided. However, there were approximately 5000 illegal tenants at blocks and investigation was being undertaken to resolve the situation. Implementation of the access control was people also a problem.

Challenges in Glebelands Community Residential Unit

With regards challenges, Glebelands and KwaMashu were subjected to a lot of violence, unrest, and community protests in the recent years. Approximately 11 000 tenants have signed lease agreements and were occupying 1856 old units and 323 new Units. Furthermore, challenges specific to Glebelands were as follows: poor payment patterns, illegal occupation in various hostels, security concerns, limited funding for upgrades for all departments, CCTV cameras were not operation, an increase in unemployment which was directly proportional to crime, high number of informal settlements which led to an increase cost in service provided.

8.3 Site visit to Hampshire Social Housing Project

Hampshire social housing was the rental accommodation which would address the critical rental needs in the eThekweni municipality. It aimed to improve the lives of the people by providing them with proper rental accommodation which would be affordable and restores their dignity whilst at the same time addressing outcomes. The mandate of the provincial Department of Human Settlements was to provide Social housing rental accommodation (180 rental units). As a department an amount of R22, 966,020.00 was approved for the project. Due to the high demand of the rental accommodation within eThekweni area, the department conducted a social survey which informed the necessity of social housing as it is their mandate to provide rental housing to people earning above the Community Residential Units income threshold. There were no challenges mentioned during the visit.

8.4 Site visit to Lamontville Slum Clearance Project

Lamontville Informal Settlements Upgrade and Housing Development Project was an urgent Ministerial Special Project with the primary objective of eradicating slums within Lamontville. The programme was aimed at upgrading all informal settlements and at ensuring integration with the existing township which would provide the opportunity to deliver services and houses to the community in a holistic development approach. The beneficiaries were from informal settlements within Wards 69, 74 and 75. The project was first approved by Special Approval in 2007 by the former MEC for Local Government, Housing and Traditional Affairs and R51.7 million was then paid up-front for the municipality to start work and fast-track project. The municipality has subsequently reconciled this R51.7 million. The project was then formally approved in 2010 for 1531 sites of which 1131 sites were in the Lamontville area and 400 sites in the Kingsburgh West Project Area to the total project value of R134 783 252.00.

On 9 September 2013 the MEC approved an additional funding to cover the costs of retaining walls and extra funding for services, due to extra ordinary development conditions in this project to the value of R13 461 227.63. During the time of the oversight, 107 units were handed over to beneficiaries. Full infrastructure has been installed, electricity as well as waterborne sewer. It was reported that 13 informal settlements has been cleared and the application for the remaining informal settlements was submitted.

9. Observations made by the delegation

The following observations were made by the delegation in respect of its oversight visit to KwaZulu-Natal:

- Misalignment of projects between the municipalities, district municipalities. This results in poor planning, wasteful expenditure, delays in the execution of projects;

- Slow roll out of projects. For instance, the Wirewall rectification project (project visited) in had challenge since 2009 which were not resolved by the time of the oversight;
- That budget cuts posed financial constrains for running projects such as Vulindela EPHP;
- That the Urban Settlements Development Grant (USDG) was not utilised optimally. Furthermore, there was a general concern there was a lack of compliance with USDG policy intents;
- That the FLISP programme was not lucrative for financial institutions. The problem was associated with income category in the qualification criteria. This income category was between R3 500 to R15 000 per month. However, there was a concern that these people were highly indebted. As a result, they did not pass the “means tests” required by financial institutions;
- That most of land in KZN was predominantly rural and managed by traditional authorities. This posed with regards to security of tenure;
- That population growth had a positive relationship with the housing demand. For instance, the provincial population increased by 11.8% between 1996 and 2011, however, it decreased to 7.1% between 2001 to 2011. The largest total positive net migration at municipal level took place in the eThekweni City region and the two provincial intermediate sized cities of Msunduzi and uMhlatuze;
- That there were budgetary constraints in relation to the rectification programme resulting in projects being blocked;
- That the cost of densification was more than the cost a housing unit as set out in subsidy quantum. As a result, there was a shortfall in the funding densification initiatives;
- That there was poor workmanship in some projects;

10. Recommendations

Based on the observations made, the Committee requests the Minister of Human Settlements to consider the following towards the attainment of Outcome 8 fundamentals. The Minister is further requested to ensure that a progress report on the recommendations is received by the Committee by the end of January 2017. The Minister should ensure that:

- The restoration and the issuing of title deeds is implemented and fast-tracked. This would empower beneficiaries as registered housing asset and that can be used as “collateral”; in addition, the Minister should ensure that the Provincial Steering Committee report progress made on the restoration of pre-1994 and post- 1994 title deeds;
- The Community Residential Units’ policy is reviewed to ensure affordability by prospective beneficiaries. This was an issue because the province reported that, generally beneficiaries cannot afford rent as most of them were dependent on government subsidy Grant;
- The review of Finance Linked Individual Subsidy Programme (FLISP) is fast-tracked in order to address following issues; the qualification criteria, unwillingness by financial institutions to contribute to the programme, and to address high levels of indebtedness by prospective beneficiaries;
- Cost that were specific to the densification approach, for example cost associated with staircases;
- All spheres of government in human settlements are working collaboratively to ensure efficiency and effectiveness of housing projects;

- The National Department of Human Settlements assist the KwaZulu-Natal province with human resources in order to fast-track project implementation;
- There is improved coordination and alignment of policy and planning frameworks;
- There is capacity in local government sphere is improved in order to perform developmental functions, in line with National Development Plan (NDP);
- The USDG be utilised optimally and respond to its policy intent;
- The department in collaboration with the Housing Development Agency, assist in land identification and acquisition to fast-track housing delivery. Linked to this would be the fast-tracking of land reform processes and aligning land use planning and management systems to the broader human settlements problems;
- All relevant stakeholders should be well informed of their role from the onset on the human settlements value chain. For an example the Department of Energy (Eskom) should be made aware of the project so that install electricity is not delayed to prevent vandalism;
- The utilisation of alternative technologies is promoted, this will assist in saving water, in the delivery of human settlements. This was important because KwaZulu-Natal was affected by the drought.

Report to be considered.

2. Report of the Portfolio Committee on Human Settlements on the Oversight Visit to Gauteng Province, dated 15 November 2016

The Portfolio Committee on Human Settlements conducted an oversight visit to the Gauteng province on 19 to 24 July 2015. The fundamental purpose of the oversight visit was to assess policy, legislative compliance, the implementation of the human settlements strategic plans, projects and programmes. The reports is structured according to the following thematic considerations; reports as follows:

Report outline

- Objectives of the oversight visit
- Composition of the Delegation
 - Members of the Portfolio Committee
 - Support staff to the Portfolio Committee
- Executive summary of the oversight
- Overview and the welcoming remarks by the MEC
- Presentation by the provincial department
- Meeting with City of Johannesburg
- Site visits within the City of Johannesburg
- Meeting with the City of Ekurhuleni
- Site visits within the City of Ekurhuleni
- Meeting with the City of Tshwane
- Site visits within the City of Tshwane
- Meeting with Sedibeng District Municipality
- Site visits within the Sedibeng District Municipality
- Meeting with West Rand Municipality
- Site visits within the West Rand Municipality
- Observation
- Resolutions
- Recommendations

This report is accompanied by pictures to help the reader get a sense of human settlements projects which were visited.

1. Introduction

In terms of the South African Constitution of 1996 and Parliamentary Rules, the Committee has an obligation to conduct oversight over any executive organ of State that falls within its portfolio. In line with this mandate, the Strategic Plan of the Committee mandates it to conduct provincial visits to oversee the implementation of project plans and programmes. The Committee also seeks to evaluate progress in relation to the implementation of housing programmes and identify any challenges encountered during process. Furthermore, the Committee seeks to promote and enhance cooperative governance embedded in the intergovernmental principles of sustainable human settlements. In order to fulfil its strategic plan objectives the Committee conducted an oversight visit to the Gauteng province from 19 to 24 July 2015.

1.1. Objectives of the oversight visit

The oversight visit to the Gauteng Province was underpinned by the following objectives:

- To ensure that provincial departments implement national imperatives as outlined in the National Development Plan (NDP);
- To monitor the implementation of the comprehensive, integrated human settlements strategy in the Province;
- To monitor progress made towards the achievement of the Outcome 8 outputs and targets set for 2015/16;
- To oversee the budget expenditure and performance in meeting service delivery targets for 2015/16;
- To oversee the role of the public and private sectors in service delivery;
- To assess progress in supporting disaster – affected communities;

- To monitor the implementation of rural and farm worker assistance, programme as well as the People's Housing Process;
- To monitor plans and progress in the delivery of the Community Residential Units (CRUs) programme;
- To monitor the coordination and management of the beneficiary list and incorporation of backyard dwellers into the provincial housing database;
- To monitor the use of alternative technologies in the human settlements construction.

1.2. Delegation

1.2.1 Members of the PC on Human Settlements

The multiparty delegation consisted of Ms NN Mafu (ANC), Chairperson of the Committee and the leader of the delegation; Ms L Mnganga-Gcabashe (ANC); Ms V Bam-Mugwanya (ANC); Mr N Capa (ANC); Mr HMZ Mmemezi (ANC); Mr LP Khoarai (ANC); Mr M Gana (DA); Ms T Gqada (DA) and Mr KP Sithole (IFP).

Support staff accompanied the delegation Ms K Pasiya-Mndende, Committee Secretary; Mr S Makeleni, Committee Assistant; Mr L Tsoai, Committee Researcher; and Mr S Mnguni, Content Advisor. Ms T Jafta, Secretary: ANC Study Group also accompanied the delegation.

1.2.2 Members of the Portfolio Committee on Cooperative Governance, Human Settlements and Traditional Affairs - Provincial Parliament

Mr M Tseki, Committee Chairperson (ANC); Ms C Ranoka, (ANC); Mr B Dhlamini, (IFP) and Mr G Khaiyane, (EFF).

1.2.3 Officials from the national Department of Human Settlements

The national delegation was led by Mr W Jiyane accompanied Mr W Nkosi, Chief Director: Mr L Jolobe, Chief Director: Ms N Buthelezi, Chief Director, Mr S Mndze, Chief Town Planner; Mr M Kraba, Director; Ms A Mabalane, Director: Mr J Makokga, Director: Mr L Mashiloane, Director: Mr V Morodi, Acting Director: Ms S Modimola, Deputy Director and Ms M Pine, Acting Assistant Director.

2. Executive summary of the oversight visit

The Portfolio Committee on Human Settlements conducted an oversight visit on 19 to 24 July 2015 to the Gauteng province. In the province, the delegation visited the three metropolitan municipalities namely; the City of Johannesburg, the City of Tshwane, and the City of Ekurhuleni. In addition, local municipalities such as the Sedibeng and West Rand District were also visited.

The oversight visit mainly consisted of briefings by provincial and local leadership. The briefings were then followed by site visits to ensure triangulation of information. The briefings by the officials responsible for human settlements, meetings with mayors and the site visits to different housing projects provided the delegation with a clear picture of the state of housing delivery in the province. Even though there were pockets of good performance, the delegation was convinced that there was a need to further investigate housing delivery issues and implementation experiences in the Gauteng province. As a result, the delegation resolved that both national and provincial department should provide a turnaround strategy that will ensure optimal performance in the human settlements space. In addition, the delegation strongly suggested the need for the Committee to revisit the province to discuss human settlements challenges in detail and provide assistance where it is required. The Committee also resolved to randomly monitor three houses that were damaged by the hailstorm (Please refer to the Resolutions section).

On the one hand, the delegation observed that Gauteng province was enthusiastic to implement the “mega projects” such as Golden Gardens Estate and Savana City. On the other hand, the delivery of houses in the areas visited was at ‘snail pace’- suggesting that there is a sizable discrepancy between ‘budget’, ‘targets’ and ‘outputs’. It was also observed that there is minimal collaborative work between the national, provincial, and local government; this further hampers achievement of the National Development Plan and housing deliverables as articulated by the Outcomes 8 delivery arrangement. In addition, there was new practice of people occupying governments provided houses illegally. There were also allegations suggesting that some government officials were involved in unlawfully allocating houses to their families, friends and those who are prepared to pay. It was reported that most of the houses occupied illegally; there were not electrified which attracted vandalism and unlawful takeover. Bulk infrastructure deficiencies were also noted as a concern in the province.

3. Overview by the MEC of Cooperative Governance, Human Settlements and Traditional Affairs, and presentation by officials

3.1. Overview and the welcoming remarks by the MEC

Mr Mamabolo, the MEC welcomed and appreciated the visit by the PC on Human Settlements. He informed the delegation that the province was blessed to host both the National Assembly and the National Council of Province at the same week. He therefore tendered his apology in advance for Tuesday and Wednesday as he was going to present in the NCOP. He indicated that the visit was the follow-up on the meeting that was held in Parliament and the resolution was taken that the Committee will visit to have a first-hand information challenges.

In his remarks, the MEC stated that the provincial department had a transformation and the turn-around strategy of the department by the end of

the first quarter. The new vision was launched with the aim of implementing the mega projects. On 7 April 2015, a Memorandum of Understanding was signed with all municipalities. Commitments were made and secured with private sector and 43 private property developers signed. The Department is in the process re-organising itself to implement its recent visions of human settlements mega projects. The Department was in the process of ensuring alignment of strategic plan and human settlements budget to prevent duplication and to prevent working in “silos”. Organisational performance is critical for the MEC.

3.2. Presentation by the provincial department on Cooperative Governance, Human Settlements and Traditional Affairs (CoGHSTA) officials

Ms D Ngoasheng, the Head of Department presented the status of the service delivery in the province. The province have an understanding of its role in the achievement of sustainable human settlements in South Africa. In order to achieve this objective, the province subscribes to the principles of the NDP, Breaking New Grounds (BNG), and Outcomes 8 delivery framework. These policies or frameworks are translated into the Gauteng Development Framework. This framework emphasis the adoption of “mega projects” as in the implementation of sustainable human settlements in Gauteng. In theory, mega projects are those projects that show-case a conceptual shift from housing to sustainable or comprehensive human settlements; integration to infrastructure, race and income, social and economic amenities; economic imperatives; social access and environmental considerations. These projects were categorised into development corridors as presented in the following table:

Figure 1: Gauteng Human Settlements Mega Projects per Corridors

Number	Development Corridor	Number of housing opportunity
1	Central Development Corridor	306 506
2	Eastern Development Corridor	106 614
3	Northern Development Corridor	180 875
4	Southern Development Corridor	123 326
5	Western Development Corridor	119 000

The financial performance of the Gauteng provincial department of Human Settlements was depicted in the following table:

Figure 2: Financial Performance report as at 30 June 2015

Programmes	Total Appropriated	Actual Spending	Available budget	% spent
Administration	444 995	75 788	369 207	17
Housing needs, research and planning	29 603	4 752	24 851	16
Housing development	5 363 737	558 830	4 804 907	10
Housing assets management, property management	100 679	17 826	82 853	18
Total	5 939 014	657 196	5 281 818	11
Economic classification				
Compensation of employees	372 402	87 316	285 086	23
Goods and services	193 804	31 845	161 959	16
Payment for financial Asset				
Transfers	5 333 882	534 482	4 799 400	10
Capital payments	38 926	3 553	35 373	9
Total	5 939 014	657 196	5 281 818	11

The two previous table showed, in some detail, the financial and delivery performance of the Gauteng Provincial Department of Human Settlements. It was concerning to note that only 11% expenditure during the financial year 2015/16 (first quarter) by the Gauteng province was not acceptable. Out of the 11%, the province seem to be performing in incremental interventions (housing units – 18 349, sites – 13 279). Other interventions

such as financial, social and rental, rural, priority projects, and provincial specific programmes were not performing;

3.2.1. Role of Public and Private Sector in Service Delivery

The private and public collaboration was only reported in the implementation of the Finance Linked Individual Subsidy Programme (FLISP). This collaboration included major banks, South African Affordable Residential Development Association (SAARDA), National Housing Finance Corporation, Housing Developers, and the Provincial Department of Human Settlements. The purpose of this interaction was to simplify FLISP processes; improve turnaround time to accelerate delivery; to explore employer assisted programme; collaborate with the Housing Development Agency in the release of land suitable for human settlements; to leverage private sector infrastructure investment to support economic viability and sustainability of mega projects; to strengthen public private partnership and delivery of post-apartheid cities.

3.2.2. Community Residential Units (CRUs)

The following table showed the CRU targets for 2015/16 in the Gauteng province:

Figure 3: CRU Planned targets for 2015/16

Stage of a project	Joburg	Tshwane	Ekurhuleni	Westrand	Sedibeng
Converted/ Upgraded - 518	146	0	62	0	310
Constructed – 201	0	0	93	84	24
Total Constructed + Converted = 719	146	0	155	84	334

The above table showed the CRU planned targets for the 2015/16 financial year. It shows both the converted and constructed CRUs in the Gauteng province. It was noted that the City of Tshwane did not have any targets for the mentioned financial year.

3.2.3. Disaster Management

The Provincial Department had no plans towards disaster management. According to the Department, disaster management was the function of Cooperative Governance and Traditional Affairs (COGTA). This was concerning because certain parts of the Gauteng province are prone to disaster. The Housing Code also encourages pro-active planning to mitigate further disasters.

3.2.4. Rural and Farm Worker, cooperatives assistance programme and PHP

The Department reported that Olivenhoutbosch and Sokhulumi projects incorporated rural interventions and People's Housing Assistance programme.

3.2.5. Beneficiary list and Backyard dwellers

The province reported that it had a centralised beneficiary list where biometric data was used to authenticate all applicants. All applications were stored in a secure provincial database – including applications who qualified for other housing products and those that were rejected.

Use of alternative technologies in construction

The province also indicated that it promoted alternative building technologies. To illustrate, between 2010 and 13, more than 3000 houses

were delivered in Zola (Soweto); Kaalfontain, Finetown (Johannesburg); Zonkizizwe (Ekurhuleni) and Atteridgeville. It was further indicated that the province would promote the use of alternative technologies in mega projects; to support and promote green economy; promote improved aesthetics; renewable energy alternatives; and to fast-track building processes. The use of alternative technologies were further demonstrated in Eric Molobi Innovation Hub (in Soshanguve) which was managed by the NHBRC. The following pictures illustrated the different technologies that were explored in the innovation hub:

Figure 4: Styrox Show House



The picture above showed the Styrox System that consists of hollow expanded polystyrene building blocks. The walls were constructed with polystyrene form with concrete infill. The final strength of the concrete is between 15 MPA and 22 MPA, which makes the walls stronger than the traditional brick and mortar methods. The outside of the form was plastered with custom-made plaster, “Styroguard”, which was finished off with another layer of normal sand and cement plaster to give a smooth finish similar to the plastered brick wall.

Figure 5: Ubomi Show House

The above picture showed the Ubomi Housing System which consists of light steel frame, with polystyrene infill. A layer of mortar plaster (40mm) was applied to the interior and exterior of the expanded polystyrene, applied to metal mesh wrapped around the wall assembly. This allows for any finish to be applied, for the desired architectural effect on either the interior or exterior walls. Support pillars of 76mm steel square tubes were used at 1500mm intervals, which add to the longevity and rigidity of the wall. All models make use of aluminium window and wooden door frames that improves the overall quality of the design. The duration of construction of the unit was 2 weeks.

3.3. Meeting with the City of Johannesburg at City Chambers

Mr Bovu, Member of Mayoral Committee welcomed the delegation. Mr Phophi, the Acting Executive Director presented on behalf of the city. He informed the delegation that the allocated funds on the Urban Settlements

Development Grant were spent. In 2014/15 the city had managed to spend 90% on its deliverables as depicted in the following table:

Figure 6: City of Johannesburg deliverables for 2014/15

Financial Progress per service delivery area	Budget R	Expenditure R	% spent
Land acquisition	40 000	40 000	100
Housing internal services	853 362	824 963	99
Roads and storm water	349 727	221 564	63
Water	72 185	72 184	100
Sanitation	150 226	150 226	100
Electricity	90 000	90 000	100
Waste Management	143 460	116 745	81
Total	1 695 189	1 529 891	90

It was encouraging to note that the overall deliverable for 2014/15 were at 90%. The total budget allocated for 2016/17 was R2.6 billion for three financial years. For 2014/15 allocation was R943 362; for 2015/16 allocation was R670 094, for 2016/17 allocation was R941 127. It was reported that out of the total budget, an amount of 1.2 billion was committed through turnkey development. In its planning, the City of Johannesburg aligned the Urban Settlement Development Grant (USDG) with the Human Settlements Development Grant (HSDG). Furthermore, the City planned to deliver 43 thousands stands for mega projects but delivered 1375 stands. All the mentioned plans were projected to reduce the housing backlog (4730 houses and 1375 service stands). This would also contribute towards the eradication of 181 informal settlements in the Gauteng province.

3.3.1. Site visits

The delegation was briefed and visited the following projects; Lufhereng, Riverside Ridge, Malibongwe, Fleuhof.

3.3.1.1. Cosmo City – as a benchmark

The delegation did not visit this project but it was used a benchmark for other mega or catalytic projects. It was thus critical to reflect on this project. It was informed that Cosmo City was one of the very first project in the

country to put to test the idea of an Integrated Human Settlements as espoused in the Breaking New Ground. Codevo and Basil Read Developments developed on behalf of the City. City of Joberg was the land owner and provided bulk link and other services. Gauteng Department of Human Settlements was the project subsidiser. Cosmo City emerged as an informal settlement eradication of Zevenfontein and Riverbend informal settlements and Cosmo Farm situated 25 km North West of Joberg. The project delivered 12 500 mixed income houses. Public and private schools including the hotel school were constructed, various churches, parks and community facilities were established. Industrial and retail facilities were operational as part of the development. The population in the area was estimated at 70 000.

Figure 7: Cosmo City Location



The above picture showed the location and the design of the Cosmo City human settlements project. The Cosmo City human settlements project was considered as a benchmark because it was a mega project that incorporates integration of race and income; access to economic opportunities; social cohesion; and environmental considerations. As a result, this project provided a conceptual definition of sustainable human settlements in South Africa.

3.3.1.2. Riverside Ridge

The project was an integrated project consisting of the following housing typologies:

- Type 1 45m² with 2 bedrooms, lounge, kitchen and bathroom;
- Type 2 55m² with 3 bedrooms, lounge, kitchen and bathroom;
- Type 3 Bonded houses;
- Type 4 State subsidized houses.

The Project Manager, who was on site, indicated that there would be 4 schools (2 private and 2 public schools), a community centre, a retail facility, and a mall. The projected timeframes for the project are 5 to 10 years.

3.3.1.3. Malibongwe Ridge

Malibongwe Ridge was an extension of the Cosmo City Phase 1 and it will incorporate the informal settlement of Itsoseng, which is one of the City's formalisation and upgrading of informal settlements programme projects. Codevo and Basil Read Developments developed on behalf of the City. City of Johannesburg was the land owner and provided bulk link and other services. Gauteng Department of Human Settlements was the project subsidiser. It would be a mixed use, sustainable integrated development and complies with the government Breaking New Ground Strategy. It was located approximately 20 km's north west of Joberg and Sandton central business district. The project would deliver 5 514 mixed units including 2 schools, 13 parks, urban agriculture, 1 clinic, three churches and two business. There would be 22 000 inhabitants.

The Environmental Impact Assessment (EIA) was authorised in December 2010, the EIA bulk water pipeline in 4 November 2011 and the township application was approved on 31 December 2011.

3.3.1.4. Lufhereng

The project was within the jurisdiction of the City of Johannesburg and located at the west of Soweto. The project size was 2 082 hectares with the allocated budget of R4,6 billion. The project consisted of 15 493 single residential erven and 8 652 walk-ups. The development timeframe was projected at 8 to 10 years. It was reported that approximately 1 500 units were to be delivered per year. The project was envisaged to accommodate 24 thousand households. It encouraged different housing typologies: mixed income groups; an array of tenure of option; mixed land uses; and agricultural consideration.

During the oversight visit, the project was reported to be 98% completion with insignificant challenges.

3.3.1.5. Fleurhof

The development plan of Fleurhof was similar to Lufhereng project, refer to 5.1.2. (Lufhereng). The project was formally recognised in the following platforms:

- Govern Mbeki Awards for the best social housing project for the year 2013;
- The South African Housing Fund (SAHF) Awards for Best Housing Project of the year 2013;
- Govan Mbeki Award for informal Settlements project of the year 2014;
- Govan Mbeki Awards for the best FLISP housing project (Gauteng) of the year 2014;
- Govan Mbeki Awards for the best housing project of the year 2014;
- Govan Mbeki Awards for the best FLISP housing project (National) of the year 2014.

With regards to the challenges, officials from the City of Johannesburg were concerned about the delivery in terms of if construction which was at slow

pace, and the subsidy quantum was not adequate for the construction of walk up units.

3.4. Meeting City of Ekurhuleni

The delegation was welcomed by Mr A Nxumalo, the Member of Mayoral Committee. The Acting Head of Department, Ms F Matlatsi presented the state of the metropolitan municipality. She informed the delegation that there were approximately 45 765 household for the in-situ upgrading and there were 50 units that were to be developed for the programme. With regards to the informal settlement there were about 164 669 households in 119 informal settlements. The number of households that require to be relocated were 118 934 and 101 settlements were due for in-situ upgrading.

She indicated that the municipality was investing in places of deprivation. That meant that it was developing a multiple index of deprivation, prioritising former township areas and informal settlements for development. The municipality was also linking human settlements plans to public transport plans. It was also building neighbourhood by supporting small scale landlords linked to backyard, promoting development of affordable housing on strategically located land in historically advantaged areas and using diverse housing typologies in all new developments. The design for quality, integrated and spatial transformation. The municipality also envisaged to develop great town centres by implementing projects linked to urban renewal nodes in the nine (9) town and former nine (9) former township areas of the municipality.

The municipality had planned to have 52 different projects within the municipality. It has planned to acquire 5 hectares of land that would yield approximately 4 051 units. There were 18 projects that were on pre-planning stage and that will contribute 35 862 units. With regard to the township establishment, there was a plan to establish 13 township and 19 979 units will be yield.

3.4.1. Project Visited

3.4.1.1. Clayville Ext 45 (Mega Project)

The project commenced in 10 May 2014 and was situated in the North-West of Tembisa adjacent to Ivory Park in the Northern Sub-regions. Valumax was the contractor or developer on site. Township establishment was completed. There were 200 houses completed in the 2014/15 financial year. The 300 units to be constructed in the 2015/16 financial year. There were 200 beneficiaries have been allocated in May/June 2015. Land development agreement has been signed by both the municipality and the Gauteng Department of Human Settlements. The Service Level Agreement was signed. There was a budget of R21 299 316 for the bulk infrastructure which was to be reimbursed to province. There would be 1134 units to be constructed for the Financed Linked Subsidy Programme, 420 units for rental and 1700 for IRDP.

There was a challenge of misalignment of planning between province and the municipality resulted in inefficiencies. Inadequate budget for the development which has meant that the development was unduly extended. The municipality had planned to access the grants that was the Urban Settlements Development Grant and the Human Settlements Development Grant to be implemented as a plan to deal with challenges.

3.4.1.2. Tembisa Ext 12 Developer driven Individual Housing Subsidy

The project commenced in 1997, since todate no houses has been delivered. There were two land portions as part of Tembisa Ext 12. On the one land portion various Land Availability Agreement were entered into between the then Tembisa Council represented by an Administrator and different land owners in 1993. It was a developer driven project. The developer requested the community to establish a committee to resolve issues. Servicing of stands continued because beneficiaries could have lost their subsidies. The issue of small stands was resolved as some of the stands had to be consolidated and the development proceeded. On the other land portion

5621, the land was undevelopable and was sold to Sophia Town Association by Wietpro. The land was between two railway lines.

3.4.1.3. Sethokga Hostel

The project commenced in 2011, it was situated in Tembisa township I the Northern Sub Region. There were 222 units completed, an amount of R43 775 933 million was set aside for the project and as at 2015/16 an amount of R1 172 789 was already spent. A contractors was appointed to demolish the existing building blocks 11, 12, 13 and 14 excluding the main supply of the electrical installation and for the construction of 240 units. By the time of the visit there were 222 units delivered. Another contractor was be appointed to undertake further work to demolish and construct further units. Installation of bulk and intern electrification would be implemented by the Department of Energy.

The project was challenged with the refusal of resident in Block 11 to be relocated to other buildings and requested the Gauteng Department of Human Settlements and the municipality not to demolish block 11 until construction was completed and allocations done. Therefore the provincial department has since delayed the construction of 18 units being block 6, 7 and 8 due to beneficiaries not yet relocated to the completed units. The allocation could not be done until the competition of bulk electricity installation which would be completed by August 2015. This therefore meant that the beneficiaries would be allocated and block 6, 7 and 8 would be constructed. The Council would determine the rental amounts.

3.4.1.4. Etwatwa Ext 30

The project commenced in 1996/1997 as an upgrading of informal settlements, Mayibuye project as a township establishment driven project. The size was 493 stands, 364 houses were constructed. The construction of internal services was included in the Daveyton-Etwatwa Essential Services

project, which through later addendums to the original funding agreement entered into in 1997, also included the construction of top structures. The township layout was planned around the existing residents of the settlement. Construction of houses by the municipality ceased in 2004 with administration continuing in 2006. In 2006 a formal request was submitted to the Gauteng Department of Human Settlements for the completion of the construction of 129 houses. The province took over the project as part of the instruction to move the house construction function to the province. The new subsidy quantum was required to complete project. That never happened.

The challenges that were encountered were in accordance with the data received from the previous developer 129 erven did not have houses constructed thereon. Subsidy approval were done prior to 2000 in terms of the old subsidy bands. There was risk that the approved beneficiaries might have moved out of the area, informally sold, their economic situation might have improved or might be deceased. The delegation was informed that the construction of the remaining houses requires the province to budget and construct the project in 2016/17. The municipality would be undertaking an audit in the area in the in the financial year.

3.4.1.5. 3 P Lifateng 473 – Tembisa

The project commenced in 1998 as a developer driven project. Land Availability Agreement was entered into between the then Tembisa Council and Bilhard Homes covering approximately 40 portions of land throughout Tembisa. The 363 top structures were outstanding. The developer sold the properties to individuals who constructed top structures.

The project could not proceed as SALDO the developer was liquidated for reason unknown. The project was classified as incomplete on the Housing Subsidy System.

3.4.1.6. 5AA Daveyton – Hostel Upgrading

The project was situated in Daveyton in the proximity of Putfontein/Modderfontein. It was reported that socio-economic study was completed. The geotechnical investigations were to be carried out to determine whether the area had underlying dolomite as well as the bearing capacity of the ground. The demolition of the hostel and the development of high-rise density residential development was recommended. The development was considered as part of government drive to address the challenges of housing provision in the province.

The project was challenged by budget constraints and was put on-hold. The province had planned to allocate the budget as part of intervention to the project.

3.4.1.7. Tsakane Ext 22 (Mega project)

The project was situated at the boundary of Ekurhuleni and Lesedi in the Eastern Sub-Region of Ekurhuleni region. The project commenced in February 2012 and was expected to be completed in 2019. During the 2013/14 financial year, the Gauteng Department of Human Settlements appointed two contractors; one for the construction of 750 houses and the other for the construction of 150 houses. During the oversight visit, it was reported that the pump station and bulk sewer were at 95% completion. It was also reported that 10 houses were completed and awaiting inspection. That 680 houses at completion stage and 150 were at wall plate level.

The reported challenges included delays in the issuing of water use licence by the National Department of Water Affairs; the issuing of the licence has been outstanding for 24 months. It was also stated that there were insufficient funds for the completion of the bulk infrastructure. Furthermore, there were challenges with regards to house invasion and non-compliance with township establishment plans and building controls.

Figure 8: a house in the Tsakane Ext 22 (Mega project)



3.5. Meeting with the City of Tshwane

The delegation was welcomed by Mr J Ngonyama the Member of Mayoral Committee. He tendered an apology on behalf of the Mayor who could not attend the briefing.

Ms N Mafu, the leader of the delegation and the Chairperson of the Committee briefed the meeting about the purpose of the meeting.

Mr A Chikane, the Acting Chairperson of the Board of the National Home Builders Registration Council also welcomed the delegation.

Mr Ngonyame then presented the status of the metropolitan municipality. He informed the meeting that the objective of the Tshwane Spatial Development Strategy were to:

- Integrate residential settlements with areas of economic and social opportunity
- Integrate the poor with main-stream say-to-day functioning of the city
- Densification strategic areas in the City

- Identify areas for economic development in the City

3.5.1. Site visit

3.5.1.1. Soshanguve – Eric Molobi Innovation Hub

The Eric Molobi Housing Innovation Hub was a result of a joint collaboration between public and private sector companies in bringing forth quality, innovative and affordable housing to the people of South Africa. All South Africans have a right to affordable, quality housing and this Innovation Hub was a response to the challenges faced by the housing sector to better the lives of most vulnerable, and contribute to Housing delivery. The focus of the Hub is to identify, draw-in and support innovative housing systems developed locally and internationally, with the ultimate aim of providing aesthetically pleasing and affordable homes to the housing beneficiaries. This was a Hub that would be able to provide beneficiaries and end-users with a wider choice of good quality affordable housing depending on the income level of the beneficiaries. The Innovation Hub was named after the late Eric Molobi

The Housing Innovation Project was established at the end of 2005 at Thorntree View (Soshanguve A) in the Tswane Metropolitan Municipality in Gauteng. The project, initiated by the previous Minister of Housing the Honourable Dr. LN Sisulu, had been tasked to the National Homebuilders Registration Council (NHBRC) and ABSA. The objective of the project was to identify, draw-in and support innovative housing systems developed locally and internationally. The ultimate aim was to provide a wider choice of quality, aesthetically pleasing and affordable homes to the housing beneficiaries and end-users.

The Hub consisted of innovative housing systems constructed by 22 developers, a Testing and Conference Centre. This Brochure, however, covers the housing units that were constructed during the 2005 NHBRC ABSA Housing Innovation competition and the housing units built after the competition.

Figure 9: Some housing innovations**Figure 9a: Eezybuilt show house**

The above picture shows the eezybuilt Housing System uses Structural Insulated Panels (SIPs) for the wall, ceiling and roof components of the home, providing an attractive, low maintenance textured finish to both the interior and exterior of the home. The greatest advantage of this system is the speed of construction, saving time and money without compromising quality. The eezybuilt home was also available in conventional form with face brick exterior walls and a plaster and paint finish on the inside. The duration of construction of the unit was 1 week.

Figure 9b: Finn Builder show houses

Finn Builder System was a slip form of concrete shuttering, using non-slump 20 MP a concrete, compacted and moved forward to extrude a continuous concrete wall. Materials used were cement, aggregate and sand and are sourced locally. The walls were constructed of polystyrene form with concrete infill forming the core. The duration of construction of the unit was 2 weeks. Only accredited Franchised Contractors may use the system and a key component of the process was the Quality Management System which ensures a Franchisee's compliance with the technology. A compliance certificate was issued on satisfactory completion of training.

3.5.1.2. Winterveld Urban Renewal

The project was located in the North of Tshwane and consisted of 1736 houses. These houses were vandalised and later rectified by the City of Tshwane. The contractor was on site and the completion date was September 2015. The illegal occupiers would be regularised; those who

qualify for a state provided housing would be integrated to several human settlements projects within the City of Tshwane.

3.5.1.3. Attridgeville backyard dwellers project

The delegation visited the backyard rental project in Attridgeville. Backyard accommodation was generally a South African practice where the backyard structure was used to provide extra rooms at an affordable rate. Backyard rental were often made of corrugated iron. The Gauteng Department of Human Settlements resolved to formalize the backyard rentals by erecting formal structures and upgrading the existing infrastructure. The challenge was that this housing arrangement is that it put extra pressure on the existing infrastructure.

The delegation viewed one of the backyard structures which consisted of 2 bedroomed house with ablution facilities. Theoretically, these structures are targeted at people who do not qualify for the fully subsidy, FLISP, or bonded houses. It was also observed that the structure was not electrified. However, the challenge was the lack of backyard rental policy to regulate the allocation of beneficiaries and rental fees.

3.5.1.4. Fort west -site and service

The project was service infrastructure which was funded by the USDG grant. Two contractors were on site. It was reported that contractors were doing well on site and meeting the timeframes provided by the City of Tshwane. All bulk pipelines were in place. During the oversight, the contractors were busy with reinstatement, concrete chambers and cathodic protection of the pipes.

3.5.1.5. Nellmapius Ext 22

This project was mega project consisting of full subsidy, FLISP, and bonded houses. There were also 98 units set aside for military veterans, 1 232 were

set aside for low cost units, 550 were set aside for rental units. Five percent of houses were set aside for people with disabilities. With regards to service infrastructure, there were 840 connections installed. The project was halted because of the delays in payments to the contractor. The Committee required the HOD to ensure prompt payment for the project to proceed smoothly.

3.6. Meeting with Sedibeng District Municipality

The delegation was welcomed by Mr S Mshudulu, Member of Mayoral Committee for Human Settlements.

Ms N Mafu, the leader of delegation and the Chairperson of the Committee presented the purpose of the visit.

Ms T Maluleka, the Regional Manager presented the projects in the district. The district's delivery plans for 2015/16 were 2823 stands and 4372 houses. By the time of the visit there were no stands delivered and 187 houses delivered. The annual projections were at R780 910 537 and the amount of R33 883 877 that was spent on the first quarter.

3.6.1. Site visits

3.6.1.1. Savanna City Mega project

It was reported that Savanna City was one of the largest privately initiated urban development in South Africa. It followed the Cosmo City model that was pioneered by Basil Read, the Gauteng Provincial Government and the City of Johannesburg. These development styles included sustainable development, integration, mixed use, new town development will the required social and economic amenities. The project is funded by Basil Read and the Housing Impact Fund of South Africa (HIFSA). The project was a 1462ha with 18 399 integrated housing units; 16 educational facilities; 32 institutional sites, clinics, crèches, and churches; and 9 retail/ commercial sites. Funding for bulk infrastructure was a major challenge for the project.

Figure 10: a house in Savanna City Mega project

3.6.1.2. Sebokeng Ext 24

Sebokeng Hostel was hostel upgrade project under the CRU programme aimed at relocating hostel occupants from existing hostel to the newly built family units. This was due to the fact that structural integrity of the existing hostel were deteriorating and were unstable, thereby posing imminent danger to its occupants. The project is within the boundaries for Emfuleni Local Municipality. The project was initiated due to a need for the people residing in surrounding informal settlements. The project consisted of 354 stands which were targeted at assisting 354 beneficiaries. The project was allocated R27 579 947 towards the USDG/HSDG but there was zero expenditure.

It was reported that 354 stands were serviced; 43 houses were completed and 25 of those were allocated; 93 houses were roofed but not completed; 111 houses were invaded; 25 houses were allocated to qualifying beneficiaries. Challenges was that some beneficiaries did not have electricity and Eskom required an amount of about R30 000 to supply stands with electricity

Figure 11: A densification example in Sebokeng Ext 24



3.6.1.3. Evaton Urban Renewal: Mafatsane

The project consisted of the upgrading of two main roads, namely; Sebe and Evaton Road. These roads were important for the local economic development and access to social facilities. These roads were used as a storm water drainage system to prevent flooding in rainy seasons. The Sebe road had challenges as it was overlapping with residential six family stands. Discussions with the affected residents were ongoing. There were incentives that were put by the district such as giving those houses in the new development that is Golden Gate. However, the residents were reluctant and concerned about the size of the new structures.

The delegation was concerned about the utilisation of the human settlements funds in construction of roads. It was proposed that sister department such as the Department of Roads and Transport; Department of Public Works to commit in the renewal projects. The report was expected to be sent to the Committee within two weeks.

3.6.1.2. Golden Gardens Mega project

The project was conceptualised to accommodate beneficiaries from Kwa-Masiza Hostel. The first phase received backyard structures to accommodate the non-qualifying beneficiaries from the Kwa-Masiza Hostel. It was reported that there were 666 houses and 666 backyard which were delivered in phase 1. Phase 2 consisted of 576 houses of which 200 were already completed, 345 services were 40% completed. Approximately 1300 beneficiary in Kwa-Masiza was in process and approved beneficiaries were allocated houses in Golden Gardens. The project created 150 jobs. The only challenge was that there were not enough houses to accommodate all qualifying beneficiaries from Kwa-Masiza Hostel. There were allegations of corruption in the allocation of houses.

Figure 12: human settlement in Golden Gardens Mega project



3.6.1.4. KwaMasiza hostel

KwaMasiza Hostel was a hostel upgrade project aimed at converting hostels units into family units. This is because the hostel became dilapidated with water and sewer spilling – posing health challenge. Water and sewer leaks were everywhere in the buildings and livestock (goats, pigs and cows) were

wondering all over the hostel. The units were converted into three bedroom units that were spacious enough to accommodate relatively large families. The hostel was identified by the Emfuleni Local Municipality after a political request was made to refurbish the hostel. The hostel was then purchased from the private land owner in 2011 and a contractor was appointed immediately to refurbish the hostel.

It was reported that internal services were 90% completed and the contractor was in the process of refurbishing 192 housing units. The challenge was that the geo- technical studies were not done completely. The project was not enrolled with NHBRC. It was also noted that the Block Committees (Hostel) were selling open spaces to outside people. To prevent this, a security service provider was appointed to prevent invasion of houses. The service provider was required to have the list of all people in the hostel to prevent more people from coming to hostel. There were insufficient funds allocated to the project for the financial year 2015/16 of R12 500 000. The costing of 192 units that were anticipated to be completed in March 2015 would be R49.5 million.

3.7. Meeting with West Rand municipality

The delegation was welcomed by the Member of Mayoral Committee. Mr T Ntisan, the Regional Manager presented the regional performance of the projects. He informed the delegation that during the first quarter 267 foundations were erected and 306 units were at wall plate. He indicated that this implies that 434 houses were completed during the first quarter. With regard to the Integrated Residential Development Programme (IRDP) planning and services were done in the informal settlements. In Kagiso/Azaadville in Chief Mogale phase II 245 stands were serviced out of 500 planned. In Rietvallei Proper, Ext 1 18 houses were constructed out of 10. In the Community Residential Units (CRUs) the houses following were constructed as indicated below:

- Kagiso Old Hostel 2245; Mohlakeng Old Hostel 0 out of 36; Kwamasiza 672 (Golden Highway) 0 out of 20; Mamello 1000 (rural) 0 out of 35.

3.7.1. Site visits

3.7.1.1. Kagiso/ Madala Hostel Community Residential Units

The Kagiso hostel project was approved in 2007 and commenced in 2008 and the planned completion date was 2015. The project was aimed at delivering 2245 units in total and 48 units by 2015/16. The Kagiso hostel comprises of two sections, Kagiso Madala Hostel and Kagiso Green Hostel, the first phase to redevelop the old communal units into family units commenced at the Madala Hostel in year 2008. An amount of R20 821 302 was set aside to develop the hostel for 2015/16. The project was challenged by hail storm. There were 112 units that were 85% completed until November 2013 when they were severely damaged by hail storm and repairs thereof have not yet been done. All 112 units have been illegally invaded and there is resistance from community for the new 48 units to commence while the 112 remain damaged. Funding was required to repair the units.

3.7.1.2. Houses affected by hailstorm – Kagiso Ext 1

The delegation was informed that there were six areas affected which:

- Kagiso Old Township – old zinc roofs - 1153 units were damaged and were repaired at the cost of R49, 320,000. The project was completed.
- Kagiso Old Township – asbestos roofing – 271 houses at the cost of R12, 466,000
- Kagiso Old Township – old zinc roofs – 600 houses at the cost of R25 665,000. The project was outstanding. The project was outstanding.
- Kagiso Old Township – asbestos roofing – 500 houses at the cost of R23, 00,000. The project was outstanding.
- Kagiso (Sinqobile Township) tile roofing – 1659 at the cost of R70,963,725. The project was completed.
- Kagiso hostel asbestos roofing – 875 units at the cost of R40,250,000. The project was completed.

The delegation visited the houses that were damaged by the hail storm. Most structures had roofs blown away by wind, some were roofed by asbestos, zinc sheets and tiled roof.

3.7.1.3. Westenoria Borwa Mega project

The Westonaria Borwa project was conceptualised as part of an overall objective to relocate approximately 20 000 people from the Bekkersdal Informal households that were currently residing on dolomitic land and bring back people closer to areas of economic opportunities. The Department entered into a Land Development Agreement with Crimson King during April 2008 wherein Crimson King was appointed as a turnkey developer. Westonaria Borwa is an approved mixed housing development project planned to yield 6 500 units.

Implementation of the project commenced during August 2011 with installation of water, sewer, electricity to 1000 stands and construction of roads and storm water. The project was being executed in phases wherein first phase of 1000 units has been completed and all houses have been allocated to beneficiaries. The second phase of the project was under implementation wherein installation of services on 1838 stands was at 85% towards completion and 500 houses were at various levels of construction. There were approximately 120 to 175 per month jobs created since inception. There were 1000 beneficiaries registered for title deeds.

There were challenges with regards to bulk electricity, it catered for 55% out of the entire development, 11Kv substation upgrade was required to increase the bulk feed and the cost thereof was R160 million. ESKOM had taken a decision to pull a temporary bulk feeder line from Randfontein to provide additional capacity to 75% of the development. The bulk sewer and water supply lines required upgrading and the cost thereof was R87 million. The Department of Water Affairs assisted with the upgrading of the Waste Water Treatment Plant and a similar intervention was being pursued with the

Department of Water and Sanitation to assist with the required upgrades. Mining Houses were trying to monopolise the Financed Linked Individual Subsidy Programme (FLISP) by incentivising the Developer to prioritise their employees, and that was not sustainable since beneficiary income was linked to lifespan of the mines. There were five show houses that were built by the developer and the programme has been launched. The region intended to draw from the R17 million that was at National Housing Finance Corporation and FLISP is an open product/programme and shall be treated in that manner and that was to depend on the rate of FLISP subsidy approvals.

3.8. Observations made by the delegation

This section of the report provided the consolidated observation, resolutions and recommendation proposed by the Committee. The following observations were made by the delegation:

- That the provincial Department of Human Settlements does not have enough capacity to implement the concept of “mega projects” and human settlements trajectory;
- The delegation noted with pleasure the paradigm shift from “housing” to “sustainable human settlements” being incorporated into the province’s planning;
- The presentation presented by the provincial department did not reflect on the plans for people in the “gap market”. The delegation was concerned about this;
- Vandalisation of state provided houses was also a problem, this emanates mainly to the projects where electricity was not installed on time. The delegation was informed that lack of cooperation between the Department of Human Settlements and the Department of Energy;
- There was no policy that regulates the allocation and rental fees of the formalised backyard accommodation;
- Most of the land in Gauteng was deemed dolomitic;
- Some projects such as Kwa-Masiza Hostel (Emfuleni Local Municipality) was not enrolled with the NHBRC;

- There are was minimal planning around the upgrading of informal settlements, no accommodation plans for backyard dwellers, military veterans, urban renewal plans, no housing solutions for mining towns and minimal plan in management of title deeds in the province;
- The illegal occupation of state provided houses still remains a problem in the province;
- The Committee was concerned about community participation, as required by the Housing Code, in the housing delivery process;
- Most projects presented during the briefing sessions were in the “pipeline” at the expense of implementation. The Committee wanted these projects to have timeframes to assist the Committee to monitor these projects;
- The Committee was concerned about intergovernmental relation, especially in notable projects such as Cosmo City and Savana City projects;
- The Committee was also concerned about the “culture” of deceiving the Committee during briefing sections. The Committee was concerned that getting surprising information from the media instead for human settlements sector;
- The Committee was concerned about the involvement of youth, women and people with disability in the housing contraction process;
- The weak relationship between the provincial department and the Housing Development Agency (HDA) in the identification and acquisition of land suitable for human settlements;
- In some cases, there were projects that did not have social and economic amenities such as clinics, trading areas and taxi ranks. There was a need to ensure intergovernmental planning to ensure;
- Delays in contractor payments, especially in the Mamelodi housing project;
- The USDG grant was often used for things that are outside the policy prescripts;
- Senior official were minimal represented in the briefings

3.9. Resolutions by the Committee

The following resolutions were made by the Committee:

3.9.1. Specific Resolutions:

- **Follow-up visit to the Gauteng Province:** The Portfolio undertook to revisit the Gauteng province, particularly the Ekurhuleni Metropolitan Municipality and West Rand District Municipality two weeks after the oversight. This was to ascertain areas that were not adequately addressed during the visit. The actual dates were to be determined pending the availability of the Portfolio Committee, the National and Provincial Department of Human Settlements and the municipalities concerned. The Portfolio Committee would set up an agenda for pending visit.

The Chairperson of the Portfolio Committee indicated the importance of the presence of the Senior Management from the National Department of Human Settlements in the pending follow up visit to the Gauteng province;

- **Intervention for unblocking Sedibeng Waste Water Treatment Plant challenges (Savanna City):** The National Department of Human Settlements together with the Province should look into the alternatives and support that would be rendered to unblock the challenges around the Sedibeng Waste Water Treatment Plant more especially those around the Savanna City development. A progress report in this regard is required a month from the last day of the oversight visit;
- **Intergovernmental Relations:** Urged the Gauteng Department of Human Settlements and the National Department of Human Settlements to present a turnaround strategy within three months. This strategy should ensure intergovernmental relations, co-ordinated funding, and address the implementation of mega projects;

- **West Rand District Municipality Mining Towns:** With regards to the West Rand District Municipality, the Portfolio Committee indicated that the National Task Team responsible for Mining Towns needed to be part of the forthcoming visit and present on the status of the mining towns;
- **The delegation was concerned about the utilisation of the human settlements funds in construction of roads:** It was proposed that sister department such as the Department of Roads and Transport; Department of Public Works to commit in the renewal projects. The report was expected to be sent to the Committee within two weeks.
- **Random monitoring of houses damaged by hailstorm in the West Rand District Municipality:** The Portfolio Committee resolved to monitor 3 houses in the Mogale City Local Municipality (Kagisho 1) that were affected by the hailstorm and were not rectified due to budgetary constraints. These houses would be monitored by the Committee in order to track the rectification interventions provided after the hailstorm. These houses were randomly selected by the Committees. There would be no financial implications for the Committee.

3.9.2. General Resolutions:

- That the Committee should re-visit the Gauteng province to get a detailed understanding of the challenges in the province;
- The Committee was pleased with the Savana and Golden Gardens project. It was suggested that these projects should be replicated;
- Senior officials should be represented in all meeting organised by the Committee;
- The Department of Human Settlements should develop/distribute a user-friendly implementation process guide to assist implementers;

- In relation to the Savanna City project, both the national and provincial departments should provide a report on how the issues of bulk infrastructure will be dealt with as they were delaying the delivery of more houses in that project. It was requested that the report be available within 4 weeks after the oversight visit;
- Densification in the housing delivery to ensure effective use of limited land was suggested;
- There should a policy framework that regulates the allocation and rental fees for beneficiaries living in formalised backyard structures. It was suggested that the formalisation of backyard structures be put on hold until a clear policy was in place;

3.10. Committee recommendations

The Committee, having been briefed by the Gauteng Department of Human Settlements, three metropolitan municipalities, Sedibeng and West Rand District Municipalities and visited various projects, recommends that the Minister of Human Settlements should:

- Advise the provincial department to provide social housing to ensure that the non-qualifies and those who are looking for temporary accommodation are provided housing for;
- Provide timeframes for mega projects;
- Request national and provincial departments to assist municipalities to develop a strategy to prevent vandalism and illegal occupation of houses. This strategy would ensure a swift allocation of houses to deserving beneficiaries to prevent vandalism;
- Ensure that the provincial department conform to 30 days timeframe set for paying contractors according to milestone achievements;
- Ensure that the national, provincial departments and municipalities employ qualified and competent individuals to key positions;
- Ensure that the national department work closely with the Department of Social Development in addressing social issues in human settlements such as destitute people, people with disabilities, child-headed households and vulnerable groups;

- Ensure that the national department provide concrete plans on dealing with mining towns as these are strategic in the sector of the human settlements and the National Development Plan;
- Ensure that the national department considers the drafting of a policy that will detail the allocation and rental cost of the Community Residential Units;
- Utilise the USDG grants to ensure adequate bulk infrastructure before human settlements projects commence. This would done to prevent project blockages;
- Ensure that the national department accelerate the drafting of the backyard rental policy in order to regulate this housing space and the allocation.

Report to be considered.

3. Report of the Portfolio Committee on Human Settlements on the Oversight Visit to Eastern Cape Province 13 – 17 September 2015, dated 8 November 2016

The Portfolio Committee on Human Settlements, having embarked on an oversight visit to the Eastern Cape; two metropolitan municipalities of Buffalo City and the Nelson Mandela Bay from 13 – 17 September 2015, reports as follows:

1. Background

In terms of the RSA Constitution of 1996 and Parliamentary Rules, the Committee has an obligation to conduct oversight over any executive organ of State that falls within its portfolio. In line with this mandate, the Committee conducts provincial visits to oversee the implementation of

plans; programmes and projects. The Committee is required to evaluate progress in relation to the implementation of housing programmes and identification of challenges encountered during this process. Furthermore, the Committee seeks to promote and enhance co-operative governance principles which are embedded in the intergovernmental principles of sustainable human settlements. In accordance with its strategic plan objectives the Committee conducted an oversight visit to the Eastern Cape Province on the 13 – 17 September 2015.

1.1 Focus Areas for the Oversight Visit

- Implementation of a comprehensive, integrated human settlements strategy in the province;
- Progress made towards the achievement of Outcome 8 outputs and targets set for 2015/16;
- Budget expenditure and performance in meeting service delivery targets set for 2015/16;
- Role of the public and private sectors in service delivery;
- Progress in supporting disaster-affected communities;
- Rural and farm workers assistance, co-operatives assistance programme as well as the People's Housing Process;
- Co-ordination and management of the beneficiary list and the incorporation of backyard dwellers into the provincial housing database;
- The utilization of alternative technologies in housing construction.

2. Delegation

2.1 Members of the Portfolio Committee on Human Settlements (National Assembly)

The multiparty delegation consisted of Ms NN Mafu (ANC), Chairperson of the Committee and the leader of the delegation; Ms L Mnganga-Gcabashe

(ANC); Ms V Bam-Mugwanya (ANC); Mr N Capa (ANC); Mr HMZ Mmemezi (ANC); Mr M Gana (DA); Ms T Gqada (DA); Mr M Shelembe (NFP) and Mr KP Sithole (IFP).

2.1.1 Parliament Support Staff accompanied the delegation Ms K Pasiya-Mndende, Committee Secretary; Mr S Makeleni, Committee Assistant; Mr L Tsoai, Committee Researcher and Mr S Mnguni, Content Advisor.

2.2 Provincial Delegation

Ms B Ndlangisa-Makaula (ANC), Chairperson of Committees; Mr S Gqobana (ANC) and Mr JPJ Botha (DA).

Mr J Basson, Committee Coordinator and Mr M B Mafempie, Parliamentary Liaison Officer.

The delegation was also accompanied by the provincial department officials, Mr G Sharpley, Head of Department; Mr S Galahitiyawa, Chief Director: Project Management and Quality Assurance; Mrs T Nzuzo, Chief of Operations; Mr F Flatela, Regional Director: Buffalo City Municipality and Ms M Mapipa, Director: Office of the Head of Department.

2.3 Officials from the National Department of Human Settlements

The delegation was led by Mr W Jiyane, Acting Deputy Director-General: Intergovernmental Relations (IGR); Mr N Mbengo, Acting Chief Financial Officer; Mr L Jolobe, Chief Director: Advisory Services; Mr M Maclean, Chief Director: Capacity Development; Ms L Masilo, Chief Director: Chief Investment Officer; Ms G Shole-Menyato, Director: Communications; Mr M Kraba, Director: Parliamentary & Cabinet Services; Mr X Tyilana, Director: Communications; Mr T Ramaha, Director: Capacity Management; Ms S Modimola, Deputy Director: Parliamentary and Committee Management Services (PCMS); Ms M Pine, Personal Assistant to Chief Director: Advisory Services; Mr M Ncedana, Ministry Advisor; Mr X

Sigcawu, Member of National Rapid Response Task Team Intervention Team and Mr K Kabagambe, National Rapid Response Task Team.

3. Executive Summary of the Oversight Visit

The delegation from the Portfolio Committee on Human Settlements conducted an oversight visit on the 13 – 17 September 2015. The oversight visit mainly consisted of briefings by the Provincial Department of Human Settlements and the two mentioned metropolitan municipalities as well as visits to projects.

Following engagements with both the provincial department and the two metropolitan municipalities, the Committee concluded that, the relationship between the two spheres of government, as represented by the provincial department was not cordial. It appeared to be no collaboration and cooperation. Instead the relationship could be defined as being more adversarial with lack of coordination (in the provincial department value chain). On the one hand, there were projects that complied with policy prescripts as set out in the Housing Code. On the other hand, there were cases where housing projects were not as compliant, for instance, it was a general practice to confuse the rectification with consolidation housing programme. There were also challenges with regards to intergovernmental relations, funding arrangements, and lack of political-will. The Committee noted these experiences, and in some instances provided suggestions.

4. Presentation by the Provincial Department of Human Settlements at Dolly Mzaydume Committee Room in the Legislature

The delegation was welcomed by Ms B Ndlangisa-Makaula, Chairperson of the Portfolio Committee on Human Settlements – Provincial Legislature. She informed the meeting that the province was inducted with similar visit by the National Council of Provinces as part of the NCOP's provincial week. She also informed the meeting the Provincial Committee had undertaken similar visits to various municipalities and reports were available for the Committee to learn from.

Ms N N Mafu thanked Ms Ndlangisa-Makaula for the warm welcome and provincial initiatives. She (Mafu) stated the objectives of the visit. She informed the meeting that the visit was going to focus mainly on the two metropolitan municipalities; Buffalo City and the Nelson Mandela Bay. This was due to the bulk of the budget that was transferred to these municipalities through the Urban Settlements Development Grant (USDG). Amongst other objectives; she stressed that the delegation was there to oversee how the budget was utilised; whether there was value for money on project implementation, assist with solutions to any challenges and frustration encountered.

Mr G Sharpley, the Head of Department presented the state of the provincial department. He informed the delegation that the department had not performed well in the previous financial years. However, as from 2013/14 and 2014/15 the department had spent 100% of its budget. The funds that were transferred from the Limpopo Provincial Department were also utilised optimally.

4.1 Departmental Progress (April - August 2015)

Mr Sharpley informed the delegation that his department had targeted to build 4476 units but managed to construct 5036 unit thus exceeding its set target. The target for the services was 2571 and the actual delivery was 5411. The target for rectification was 938 and the actual delivery was 1679.

4.2 Conditional grant

REGION	Total Annual Cash Flow	Expenditure APR 15 - AUG 15 R'000	Budget available SEPT'15 - MAR'16 R'000	Percentage spent
<i>Nelson Mandela Metro</i>	397,835	66, 498	331, 337	17%
<i>Joe Gqabi</i>	123,512	35, 096	88, 416	28%
<i>Chris Hani</i>	137,933	99, 601	38, 331	72%
<i>Centralised</i>	370,243	192, 279	177, 965	52%
<i>BCMM</i>	193,185	87,021	106, 164	45%
<i>Amathole</i>	157,262	84, 837	72, 425	54%
<i>OR Tambo</i>	208,217	181, 260	26, 957	87%
<i>Alfred Nzo</i>	211,450	148, 785	62, 665	70%
<i>Sarah Baartman</i>	162,735	14, 047	148, 688	9%
TOTAL	1,962,372	909, 424	1, 052, 948	46%

4.3 Disaster Projects (Permanent Solution)

It was reported that there were various regions in the province that were affected by disasters. The department was aiming at assisting some regions with emergency housing units. The Department of Cooperatives Governance and Traditional Affairs was also assisting in response to disasters through the disaster fund or grant. The target was to assist in 935 housing units. In OR Tambo, Mhlontlo Municipality 16 vouchers were handed out to beneficiaries to rebuild their houses. In Mbizana, Nkantolo 30 - 40 units were rebuilt and in Mbizana 486 emergency to be erected. However, there were 50 units required to be build.

4.4 Enhanced People's Housing Process (ePHP)

The department reported that the annual performance plan made a provision for 11 ePHP projects. This target had taken into account the department's capacity to roll-out the programme. Community participation was viewed as a key ingredient for the successful implementation of the programme. The programme also attempted to promote housing ownership and diversification. The Community Resource Organizations (CROs), in line with the policy, facilitated the implementation of the projects. During the oversight, it was reported to have been taken a shape within the province and the province was committed to fast-track the programme.

4.5 Emergency Housing Assistance (Temporary Shelters)

Emergency Housing Programme and temporary shelter were concepts that were used interchangeably. In the provincial context, it was often a practice to refer to "emergency housing" as "temporary housing". The department informed the delegation that it (department) had targeted to assist with 337 households. The budget for temporary shelter was at R17 496 012 during the 2015/16 financial year. The department reported that 215 shelters has been erected at Amathole District Municipality with the highest number of 123 units and the Nelson Mandela Bay Municipality with only four (4) shelters, the lowest.

4.6 Plans and Progress on Community Residential Units (CRUs)

The department informed the delegation that there were no targets set for the 2015/16 financial year while an amount of R2 400 000 was set aside. The priority was to refurbish the existing CRUs in various areas of the province.

4.7 Beneficiary Administration

The delegation noted that beneficiary administration was a complex problem, which was further compounded by perceived corruption in housing allocation. The department reported that the beneficiary administration was the function of the municipality. However, this function continues to present challenges. Suspected manipulation, illegal occupations, illegal selling and buying of houses and renting out of houses was prevalent in most areas. The province was going to take a more pro-active approach in managing this function. This was going to be done through the establishment of a dedicated Beneficiary Administration component. The province was going to be more involved in assisting municipalities with the administration processes. Beneficiary Correct Occupation Campaign, through public hearings, and ‘door-to-door’ campaigns were to be rolled-out to establish the extent of the programme. A governance structures in municipalities in the form of beneficiary allocation committees were to be established. Housing Consumer Education Programme was going to be utilized to empower communities.

4.8 Discussion

The delegation welcomed the presentation and positively noted the smooth implementation of the “turnaround strategy”. The unqualified audit reports for three consecutive years were also positively noted. However, the delegation raised the following concerns, comments and questions for clarity:

- It was noted that from the presentation there was less attention on the strategies to deal with informal settlements, mega projects, and backyard dwellers. Clarity was requested in this regard;
- The land availability was not divulged, the delegation wanted to know how many land parcels were procured or available (land bank) as this would assist in the pipelining of projects;

- The delegation wanted to know the extent to which the Housing Development Agency (HDA) was assisting the department in acquiring land;
- It was noted that there was a challenge with beneficiary management and clarity was sought on how the department was managing it;
- The delegation acknowledged that the department reported that there were no good working relations between the Buffalo City Municipality and the provincial department. The delegation was concerned about this and requested an explanation in this regard;
- It was regrettable that in the Buffalo City Municipality there were no Finance Linked Individual Subsidy Programme projects (commonly known as FLISP) whilst there were middle-income population requiring decent accommodation. This population was predominately consisting of police personnel, teachers and nurses.
- Vandalisation of government provided houses proved to be a persisting issue. This practice complicated the title deeds system and, to some degree, created community unrest. Clarity was sought on the reasons for vandalising houses and how this challenge would be rectified;
- It was noted that the Buffalo City Municipality was not performing well in relation to the USDG. The delegation was also concerned about the lack of service delivery in C Section of the Duncan Village. As a result, the delegation wanted to understand plans to develop the C Section in Duncan Village as the area appalling condition.

4.9 Response by Provincial Department and the Municipality (Buffalo City Municipality (BCM))

The Head of the Department informed the delegation that there were land parcels in the BCM which were sourced during *Quita* process,

approximately 19 hectares along the airport for multi-use. She also made mention of further six land parcels that were available within the province.

The issue of putting the accreditation process on hold was a problem for the BCM as it was prepared for Level-Two accreditation. The decision to put on hold the accreditation process was taken at a MinMEC level and the department had no other option. The provincial department claimed that the municipality was running projects that were not approved and were advised to stop projects such as the Fynbos housing project. He indicated that the problem was further compounded by complaints from the BCM stating that the provincial department owed the municipality an amount of R200 000.

It was reported that assessment was done in 156 informal settlements in the province. The informal settlements in Mdantsane cluster 1 were highlighted as the area that was going to be eradicated.

The Member of Mayoral Committee informed the delegation that the BCM spent 99% of its USDG funding, thus resulting to the municipality receiving the prize of being the second best performing metropolitan municipality. She agreed that there was a lack of synchronisation between the municipality and the province as they both were running their own projects. She stated that the BCM was frustrated by the halting of accreditation process however, the municipality was delivering according to its mandate. On the issue of implementing projects that were not budgeted for by the province cause instability with the contractors as they did not get paid on time. She reported that the lack of FLISP (Gap market) project in the BCM led to beneficiaries leasing out their Breaking New Ground houses as most of officials in the Gap market were looking for places to rent. She further reported that only 4% of land was owned by BCM. She urged that there should be a political intervention with regards to rectification programme, as there were houses that were left half-built and the beneficiaries were unable to finish them.

With regards to Duncan Village, she reported that the implementing agent was appointed, however, there was no progress. She requested support and assistance from all spheres of government, as there was a need for temporal relocation unit in order to develop the area. It was alleged that some beneficiaries did not want to move from their areas where they were residing, which was adjacent to town. Their argument was that the new location was far from amenities. She confessed that the beneficiary list was managed better as it used to be. She reported that the BCM was approving the list while project was at IDP level by registering a shack to a house to be built. She further reported that the system was then delayed by those who were claimed that they were keepers. The issue of Environmental Impact Assessment (EIA) was a challenge because after land has been identified the EIA process took long to advise whether the land was suitable or not for human settlements.

The Nkosazana (traditionally referred to Royalty) from the National House of Traditional Leaders informed the delegation that the issue of beneficiary list was problematic. Some of the beneficiaries had been on the waiting list for a long time and have been overtaken by those who were able to buy. She was concerned about the lack of monitoring on the invasion of land as some communities invaded grazing land. It was alleged that most of the invaders were government officials who later constructed big houses, whilst there were no basic services installed. She urged the provincial department to prioritise women in housing matters especially those who were leaving in mud houses to be assisted in rectifying those houses.

Nkosana Mavuso (traditionally referred to Royalty) appreciated the delivery of 300 houses that were promised five years ago. He requested that the provincial department should assist by constructing a multi-purpose centre for the community.

Ms Lucy Masilo, Department of Human Settlements (National), commented that there would be a revised approach for accreditation for all metropolitan municipalities, that is, all the metropolitan municipalities were to be re-

assessed. She also stressed that ‘project readiness’ and ‘project matrix’ were to be considered prior to gazetting.

5. Projects Visited

5.1 Dimbaza – 136 Wooden Rectification Project

There were 136 houses in total in the area; constructed during Ciskei government era with wood. The rectification project commenced in 2013, with 45 houses to be rebuilt and 35 were to be demolished; 27 houses to be constructed for the blind people who were residing in the area. Some of the residents were not qualifying and that pose a challenge. The contention was that some beneficiaries had rectified using private resources, which they claim they that it should be reimbursed.

The picture below shows the wooden structure, before the rectification process:



The following picture shows housing after intervention:



5.2 Eastern Cape Braille Community

During the visit to Dimbaza it became apparent for the delegation that there were blind people who had been on the waiting list for some time. The delegation became interested to see the blind people as it was mentioned that 27 houses were for them. The delegation interacted with them and confirmed that there were going to benefit in the project nearby. They, however, lamented the possibility of being overlooked during the allocation phase. The delegation reassured the gathering that allocation of houses would be monitored closely.

The picture below shows the interaction between the delegation and the Eastern Cape Braille Institution. It further shows the land identified for their housing construction.



5.3 Sweetwater Human Settlements Project

The project was initiated by BCM as the first developers of the project for the servicing of 620 erven, and construction of 620 housing units. The first project agreement was entered into between the Member of the Executive Council (MEC) and BCM on 08 February 2002, for the installation of basic services to 620 sites. This was done as part of the Department's Rapid Land Release Programme.

In September 2005 a new agreement was signed which increased infrastructure costs, top structure funding and a 15% geotechnical variance allowance was approved. In January 2006 an addendum was signed for the allocation of additional funds in terms of the "Unblocking of Blocked Projects Approach". BCM appointed 'Messrs Youth in Construction' to build the first 120 top structures. They struggled to deliver in terms of their contract, which have since been cancelled. Due to the non-performance of the Developer (BCM) and the appointed service provider, the department reached a

decision that the project agreement with BCM be terminated at a determined status quo. The lack of performance was evident by 87 poorly built units out of 120 units initially allocated. The remainder of the project was then managed by the provincial Department of Human Settlements as part of “Operation Thunderstorm”.

500 Units by Ntabeni Construction

The provincial department successfully procured the services of Ntabeni Building Construction to build 500 units. The initial 120 sites were ring-fenced to allow for the assessment of defective workmanship and for BCM to initiate legal action against Youth in Construction. On the 9th January 2008, the Head of Department signed a principal building agreement with Ntabeni Building Construction. A total amount of R33 833070.15 was approved for Ntabeni Building Construction to complete 500 housing units. The cost per house amounted to R67 666.14.

Subsequent to the agreement; a tri-partite agreement was entered into between the MEC, BCM and Ntabeni Building Construction. Since their appointment, Ntabeni Building Construction could not produce a single Final Unit Report. Several meetings have been held with Ntabeni Construction in which they were advised to improve their capacity on site and deliver as per their Project Implementation Plan. However, no improvement was noticed.

It was reported that the project was visited by the National Minister of Human Settlements in August 2009. The Minister provided guidance on the improvement on the performance of the project. The department issued Ntabeni Building Construction with a notice of breach of contract on 5th October 2009 but the contractor did not improve performance. The Department further issued Ntabeni Building Construction with a Cancellation of Contract on 27 November 2009. This was done in the interest of the beneficiaries

of the project who have been waiting since 2002 for their houses. The project was terminated with only 55 houses at finishing stage.



455 Housing Units by MMS Construction

After an accelerated bidding procedure, MMS Developments was appointed as the successful bidder to unblock the project. The awarded tender amount was R35 002 810.00 for the project which equates to R78 658.00 per house. The project is complete. All the units were occupied by the beneficiaries. The project was considered as a very successful. Beneficiaries were content to receive their houses after they have been waiting for more than 10 years.

5.4 Ilitha Rectification Project



Above are houses that were constructed following the demolition of 224 wooden units at Ilitha.

This project was situated at Ilitha Township, it was a new project which aimed at redevelopment of the dilapidated wooden houses that were built by the then Ciskei Government. The wooden structures were demolished and replaced by new 40m² low cost houses with new specification, presented in the above picture. The beneficiaries were residing in these dilapidated structures. The project scope comprised of foundation design, house plan and project management of 262 units. The area had adequate existing water supply to accommodate the proposed waterborne sewage system.

BCM was then tasked to conduct a detailed beneficiary survey addressing the situation with regards to the beneficiary status. As a result, a full beneficiary survey was to be carried out to reveal the 262 houses which were built and transferred to beneficiaries. By the time of the visit there were 50 houses that were completed. Some of the houses were not connected to water and sewer line due to geotechnical challenges. The electricity boxes were not moved from the old wooden houses to new

structures due to funding constraints. The municipality reported that the electricity connections would be done during the construction of new units and will make sure that electricity boxes would be relocated as soon as possible.

The leader of delegation requested the office of the Deputy Minister to follow-up the matter and report to the Committee in two weeks' time.

The municipality reported that there were challenges with the slow approval of beneficiaries; contractual delays; inclement weather; lack of appropriate skills and concerns around community unrests.

6. Meeting with Buffalo City Metropolitan Municipality (BCM)

Mr T Matiwane, Acting Chief Operations Officer, presented on behalf of the municipality. Mr Matiwane informed the delegation that the municipality was requiring more funds to deliver on its Medium Term Expenditure Framework (MTEF) targets. On the issue of over-expenditure, it was indicated that a report was to be tabled at caucus for normalisation of expenditure on the USDG. The municipality reported that as it had volunteered to pilot the change from the old accounting system to a new system as was required by the National Treasury, this had led to some technical glitches.

Other matters included backyard dwellers who were said to represent a 'ticking time bomb', presence of a huge backlog in dealing with informal settlements; rental/community stock that was not performing well due to among others, poor rental collection, and vandalism of houses in areas such as Potsdam.

6.1 Summary of targets for 2015/16 business plan

The municipality had targeted to deliver 1 333 units. Of those 438 full services stands; 0 partial services; 0 for destitute and vulnerable; 20 units for rectification. The budget of R193 185 was set aside to deliver for 2015/16.

It was reported that there was a decline in the budget allocation as compared to the previous financial year.

6.2 Performance of non-financials and financials as at August 2015

The municipality reported that there were 603 units at foundation phase; 348 at wall plate; 821 units at roof level and 386 in finishing phase. The total of 2 158 units have been completed. The total of the units delivered from April to August 2015 was at 818. The total number of services installed as from April to August 2015 was at 819, and an amount of R87 022 was spent.

6.3 Running Projects

A list of running projects was presented to the delegation with the timeframes and the number of units to be yield at completion. In some projects there were units completed, whilst in others there were challenges. Some of the challenges were the slow progress in occupation of houses as result some houses were vandalised. Reeston Phase 1 (stage 3) was prone to social unrest that contributed to project delays.

6.4 Rectification Projects

The municipality reported that there were two projects on rectification. Firstly, the Egoli 100 in phase 1, hundred (100) houses were rebuilt. Secondly, in Dimbaza Wooden Houses, 42 units were rectified and completed.

6.5 Pipeline Projects

A list of project on the pipeline was presented. Orange Grove was reported as a catalytic project that was meant to commence in February 2015 but was awaiting EIA report. Mention was also made of two catalytic projects in the

metro and one of those was Orange Grove. Cluster 3 that includes Fynbos and Ndancama was awaiting funding from the Province, while the developer was at various stages of housing construction. Some of the projects were at various stages of development. However, the community had water and sanitation challenges. To address this, the municipality proposed to build a local water reservoir (Nordev reservoir) in West Bank. The municipality subsequently discovered the mentioned land parcel that was privately owned.

6.6 Social Housing Provision

There were two social housing projects within the municipality targeted - Calyspo Heights 601 units in Amalinda. The work had since commenced and progress was at 25%. The Ocean View 603 units in West bank funding agreement with the provincial department was still to be signed.

6.7 Finance Linked Subsidy Programme (FLISP)

The municipality reported that there was no new FLISP development, however, the Department was receiving and approving applications from beneficiaries who were purchasing existing houses.

6.8 Deliberations

The delegation was appreciated the honesty around the nature of inter-governmental relations amongst the human settlements spheres. This was evident when it was agreed that there were projects that were implemented without the approval of the provincial department. However, the delegation deliberated on the following issues;

- A clarity was sought on whether the implemented projects were based on the Integrated Development Plan (IDP);
- Due to lack of information regarding the informal settlement, the delegation wanted to know whether there were any plans to upgrade or eradicate the existing informal settlements within the

municipality. It was also enquired whether were there any plans to address the mushrooming of the said settlements;

- It was concerning to note that there was little spending on the Urban Settlements Development Grant (USDG) by other departments. There were no targets for electricity connections and clarity was sought on what were the negotiations with relevant department such as the engineering;
- Land invasion seemed to be a challenge as most of well-located, affordable and suitable land parcels were invaded. Clarity was sought on what were the municipality plans to overcome this challenge.

6.9 Responses

The Acting Chief of Operations reported that the municipality received an unqualified audit report and also awarded the second best performing municipality. He stated that, this was an indication that it was ready for Level Two level Accreditation.

He reported that the land invasion was administered by Spatial Development Department within the municipality and it was not easy to work with. He appealed that the Human Settlements should administer land and the issuing of title deeds in order to fast-track the delivery of human settlements. He hoped that the review process that way underway through the Council was going to review and resolve the matter.

The issue of backyard dwellers was viewed as a ‘ticking bomb’ in the municipality. It was urged that the drafting of the Backyard Rental Policy should be fast-tracked in order to address challenges in this space.

He reported that the municipality had more rural villages added during the demarcation process, as a result more resources were required.

7. Project Visited

7.1 Ilinge human settlements project

The project was an informal settlements upgrading project consisting of 1 459 units. People were relocated and some were assisted with materials for temporary structures. This project was delayed due to land claims by some community members suggested that they bought some portions of land during the then Ciskei Government. The contractors were working with NHBRC and the electricity was installed.

7.2 Duncan Village – 1137 human settlements project

The project was under construction and was going to yield 1137 housing units. The project aimed at relocating people from C Section, Duncan village. Phase 1 of the project was to be completed in October 2015 and phase 2 in October 2016. There were sites set aside for social amenities. The electricity was not installed.

7.3 Ndancama – 496 Cenary Park

The project was part of Fynbos (1 phase and 2). It was informal settlements upgrade project. Beneficiaries were relocated to Temporary Relocation Area (TRA) while their house were constructed. There were 100 TRAs that were provided by the BCM. It was reported that the project was one of those implemented without the funding agreement with the provincial department.

7.4 Duncan Village – C Section

The delegation was informed that the area was earmarked for de-densification and it was consisting of approximately 20 000 households.

7.5 Resolutions

- The Metro and the Provincial Department to respond in writing on what would to be done to address the issue of water

shortage/supply and power supply (electricity) at Dimbaza and Ilitha within two weeks, after the visit;

- National Department of Human Settlements to convene a workshop on the Housing Code as part of efforts to improve working relationship between the metro and the province as deal with weakness and related issues surrounding policy implementation.

8. Meeting with Nelson Mandela Metropolitan Municipality (NMBM)

Ms Tonsi, MMC for Human Settlements welcomed the delegation. Mr S Nogampula, Senior Manager, presented on behalf of the municipality.

8.1 Summary of regional plans for 2015/16

The NMBM had targeted to deliver 100 units for destitute and vulnerable; 2 778 units inclusive of the destitute; 2 028 full services and 665 units for rectification. The budget set aside for the targeted plans was R397 835 000.

8.2 Performance of non-financials and financials as at August 2015

It was reported that as of August, there were 713 foundations; 111 wall plate; 549 roof level and 81 in finishing stage and that was going to yield 1454. Units delivered as from April to August 2015 were 375 at an amount of R66 497 770.

8.3 Running projects

A list of running projects was presented. Some projects had challenges and the NMBM was intervening and in some project the HDA was also assisting. The NHBRC was also assisting with facilitation of beneficiary application and overriding of required application and with enrolling projects.

8.4 Rectification

The NMBM was rectifying houses in Uitenhage which were affected by community unrest. It was reported that there was a contractor on site, who has done some work, but no claim submitted then for value created. In Masangwana Ville 338 (column houses), the project was stopped by SMME's demanding to be part of the project. There were no claims submitted by the developer. In Soweto on Sea 2500, the project was affected by re-planning (small sites and flood plains). There were not claims as the project had challenges of small a site and flood plain. In Missionville Garden Lots 2498, the project was affected by incomplete services.

8.5 Incremental Housing Programme

The project was divided into the following phases:

- The Motherwell NU 29, phase 2 (2101) project performed beyond expectations;
- Joe Slovo 614 (398), the project was delayed by electricity installation and payment structuring by the developer. Electricity issue was later resolved;
- Rosedae 804 (505), some of the contractors that were appointed did not have capacity hence some houses were not completed. Some contractors were not paid in time and left site. Municipality had reclaimed those houses from the non-performing contractors. Value for work created had been claim except those houses that do not have beneficiary approved. The municipality was going to appoint an experienced contractor to finish the outstanding work;
- Kayamnandi 184, project I started late due to delays on beneficiary allocation. The developer has constructed only slabs and toilets;
- PE – Eluxolweni 58, the project was blocked due to beneficiaries not willing to relocate;
- Area 9 – 649, the project was complete. However, funds availed for transfer that were linked to the approval of beneficiaries;
- Tiryville 48, the project claim was for July but paid in August.

8.6 Priority projects and Provincial specific programme

A list of priority projects was presented with their status and timeframes.

8.7 MEC priority destitute and vulnerable Groups

A project consisting of 100 units for destitute group was approved and the contractor was appointed but had not started with the construction.

9. Project Visited

9.1 Motherwell - NU 29

The project started in February 2015 and estimated to be completed in March 2016. The project would yield 398 units as an *in-situ* informal settlements upgrading project. It was reported that eight (8) emerging contractors were appointed to construct these houses. By the time of the visit there were 210 units that were in various stages. It was further reported that 183 beneficiaries had been approved and 45 of the resident failed as they had previously benefited. The provincial department reported that the issue of electricity was resolved and was going to be installed.

The following two pictures show the delegation interacting with local people visited project:





The following picture shows progress status of the project:



9.2 Uitenhage - Joe Slovo- 614

Joe Slovo project consisted of 614 sites but the project would be phased into 2 portions. Phase 1 of 398 sites was approved on the 18 Feb 2015 with a total project budget of R 47 107 891 for top structures and the 2nd phase would be approved later. To date 178 beneficiaries are approved with 220 outstanding of 398. The reason for phasing the project was that by the time NMBM was applying for funding another portion of 614 sites GP was incomplete. The developer was the NMBM and they have appointed eight (8) SMME's contractor for top structures.

There were eight (8) contractors on site, the project started in Jan 2015 before it was approved for funding. Below was the list of awarded contractors and their units: Brilliant construction – 201 units; C Forbes – 51 units; D Pamza trading – 20 units; Debbie construction – 29 units; Daniso and sons – 46 units; Inkciyo trading – 11; Ivili projects – 20 units and Nonqawe trading – 20 units. The duration for the project was 12 months commencing from 18 Feb 2015 to 31 March 2016 according to the funding agreement. To date there were 200 houses in various stages, completions are expected by end of September 2015. Services in this project were done under USDG funding. There were 398 outstanding houses. 614 services installed and the budget approved was R47 107 891.

The project was challenged with the implementation of the electricity as per the new norms and standards for all the projects approved after April 2014. Beneficiary approvals were exceedingly slow. The claims for the developers were not paid, because they were not in line with what was approved for the project, hence there was no expenditure to date.

The following picture shows the community interacting with the delegation:



The following picture shows status of the project:



9.3 Khayamandi – 124

This project was a mega project that was earmarked for relocation of beneficiaries from different areas. It was approved in November 2014 for 9000 housing units. The implementing agent was Nelson Mandela Metropolitan Municipality. There were only slabs and toilets erected during the time of the oversight.

The delegation was informed that the project was not enrolled with the National Home Builders Registration Council (NHBRC). During interaction with the officials and beneficiaries, NHBRC official confirmed that 184 slabs and toilets that were enrolled with NHBRC as part of phase one. Other phases were not yet enrolled the entity; phase two of the project consists of 468, and phase three consisted of 1013 slabs and toilets. All toilets were waterborne.

The community complained that they were relocated from February 2015 but toilets were blocked and garbage was never collected. As a result, the settlements were inhabitable because of the lack of hygiene consideration. The community also requested that the municipality should clear the nearby bush and the dam; because of perceived existence snake.

The following picture shows the Khayamnandi project:



The delegation was of the view that the municipality wasted state funds by building a ‘toilet-city’ instead of providing proper houses for the community. Toilet-city was a concept suggesting the unconventional approach to building house. The delegation thus requested the provincial department and the metro to report, in writing, the rationale for the use of this ‘unusual’ approach. In addition, the Committee wanted assurance that community engagement was conducted prior to the adoption of this approach.

9.4 Chatty 491 – Military Veterans Project

Chatty 491 was the last phase of the Chatty 4301 human settlements project. The project was approved on the 30 March 2015 for 491 units with a total project budget of R 89 041 028.00 for top structures. This was an integrated project that included houses for destitute, disabled, and child-headed households. This project was also ring fenced to cater Military veterans available in NMBM. During the oversight visit, there were 45 beneficiaries approved, HDA and Department of Military Veterans needed to do supply more application forms. The developer was the Provincial Department of

Human Settlements (PDOHS) and HDA appointed as an implementing agent.

With regards to the current status of the project, there was no contractor on site, the project had started. There were 491 houses outstanding and 491 services installed at the budget of R89 041 028.

Department was in process of finalising the funding arrangement with the HDA. Project was expected to start in November 2015. Services in this project were done under Chatty 4301 project. The municipality reported that beneficiary allocation was moving slowly; HDA and the Department of Military Veterans needed to fast-track beneficiary allocation so that Department could fast-track process of capturing in the system before project starts. Some military veterans had existing fixed property or earning too much to qualify.

The delegation requested the metro to provide the list of project, with timelines, for Chatty housing project.

9.5 Red Location – Masangwanaville 376

This was a rectification project of 376 houses made of columns. The challenge was that these houses were located in close proximities to the rail way line. The municipality was the developer and the provincial department was the funder. The project commenced in February 2015 and estimated finalisation date was October 2015. There were 288 units that were approved for rectification. At the time of the visit no units had been completed

The project was delayed by SMMEs, demanding for 30% on the construction of the houses. Some of the residents were claiming to be assisted even though they had managed to extend their houses.

The following picture shows the New Brighton's Red Location Masangwanaville Project:



9.6 Warmer Area – phase 3 - Social Housing – Fairview links

The project consisted of 368 four story walk-up units and was targeted at households earning between R1500 to R7500 per month. Twelve (12) units were allocated to people with disabilities. Racial mixing was presented in the following table:

Group	Total	%
African	113	31%
Coloured	129	36%
Indian	14	4%
White	107	29%
TOTAL	363	100%

The following two pictures show the complete Fairview links project:



9.9 Willowdene Social Housing Project – 400 units

The Willowdene Social Housing Project was situated in Erf 3231, Portion of Erf 1 in Willow Road, Fairview in the Nelson Mandela Bay Municipality. The project consisted of 400 units, implemented by Imizi Social Housing Institution and the developer was the Home Market. It is located within a

walking distance to a public transport corridor on the William Moffett Expressway, making it accessible to most social and commercial amenities included. The project came out of a Land Availability Agreement between the land owner, PELRHA and the developer, the Home Market. On the one Home Market has a development agreement exists with the Social Housing Institution Imizi Housing Association.

The project would provide affordable rental accommodation to middle income households earning between R1500 and R7500 as follows: 30% of the units for qualifying beneficiaries earning between R1500 and R3500 per month; 70% of the units to qualifying beneficiaries earning between R3500 and R7500 per month. It consists of four hundred (400) units of varying sizes and typologies ranging between thirty (30) square metres and fifty (50) square metres.

The supply of affordable rental accommodation in Nelson Mandela Bay Metro was virtually scarce to non-existent. A majority of employees were residing at the periphery of town due to the unaffordability of well-located houses. The two projects were developed by Imizi Housing Association. The Home Market bear testimony to high demand for affordable rental stock amongst low and middle income earners. These projects were Walmer Link (341) and Fairview Link (368). Each of these projects had a long waiting list from inception until completion and they always have 0% vacancy whilst people were still looking for accommodation. The approved total allocation of institutional subsidy by the Provincial Department of Human Settlements for the projects was R69 491 197. 78.

Project Mix

TYPE	SIZE	NUMBER	TARGET GROUP	% OF TOTAL
Studio	30 m ²	66	R1500- R7500 pm	17
1 Bed Units	38 m ²	138	R1500-R7500 pm	35
2 Bed Units	50 m ²	196	R1500- R7500 pm	48
TOTAL		400		100%

During the time of the visit there were SMMEs that were ‘aggrieved’ on the site stating that the main contractor was not willing to co-operate.

Mr T Zulu, Acting Chief Executive Officer – Housing Development Agency confirmed that the agency was part of the implementing agencies assisting in the metropolitan. This was in terms of mega projects that were to be constructed within the metropolitan municipal area.

9.10 Deliberations

The delegation welcomed the presentation and sought clarity, comments and questions:

- Working relationship between the province and the metropolitan was not good. Clarity was sought on what were the challenges;
- Concerned about the lack of capacity of the human settlements department to implement the programmes; plans and to meet target set. Thus resulting in huge backlogs and blocked projects. Staff instability resulted in poor delivery as most of staff were in acting position. It was also alleged that union representing staff members were taking legal actions against the metropolitan. That was due to the fact that there was an intervention team assisting the metropolitan in delivery challenges;
- Concerned about so-called hotspots and wanted to know plans to mitigate the situation;
- Concerned about the reduction of budget;
- Concerned about the low number of military veterans assisted in the province;
- Land invasion seemed to be a serious challenge due to lack of implementation of by-laws, regulating this space. There was a need to tighten the rules and policies. There were also no clear targets for land acquisition;
- The metropolitan municipality reported to be owed an amount of R200 million by the province and the delegation wanted to know what the money was for.

- Sought clarity on what has been done to assist in the management of beneficiary list as it was seemed to be problematic. The municipality was requested to clarify the ‘first come first served approach’;
- Rectification and disaster or emergency houses were used interchangeably and it was confusing. Clarity was sought on the reason to rectify 735 houses that were not planned and budgeted for.

9.11 Responses

The national department confirmed that the municipality staff took the municipality to court. The senior manager also concurred with the national department also stating that there were challenges such as resistance to the intervention team and processes. Staff was on ‘go-slow’. By the time of the visit there were only two staff members on duty, some reported to be on study leave while others were on sick leave. This was concerning to the Committee. Part of the problem was the appointment of the intervention team whose task was to assist the province on housing delivery. Staff go-slow demonstration was against the appointment of this team, this was because they felt threatened by the team. The problem was further compounded by the lack of clarity on the role and limitations of the intervention team;

In its response, the political leadership of the municipality urged for assistance in resolving the matter.

The HDA, which was part of the intervention team, re-affirmed its role and assured the staff that they would not lose their jobs. Instead the staff was to be up-scaled and their jobs would not be affected;

Regarding the issue of revolving fund, the municipality informed the delegation that the revolving fund was adopted to bridge finance as a benchmark. Contractors had contractual agreements and were paid per milestone then claim from the province;

It was reported that there was approximately R50 million set aside for rectification programme. NHBRC was waiting for the plans from the municipality for the installation of electricity for post 1994 houses;

It was clarified that the 'first-come-first-serve' was referring to the people who registered first.

10. Findings and observations

The following were findings and observations:

- The delegation observed that the delivery of human settlements in the province has improved in the previous financial year. The provincial department received unqualified audit report. The overachievement on targets was appreciated as houses constructed also showed improved quality;
- The turnaround strategy was valued as it has improved the delivery in the province and stabilised the department. The new service delivery model resulted in the province winning in the social housing and FLISP, through the annual Govern Mbeki Awards;
- The appointment of turnkey contractors that save the department huge sums of money was also appreciated
- It was assumed that there were no intergovernmental relations in place or there were not functioning well. There was a lack of integrated planning thus resulting in poor coordination of work and funding challenges.
- The delegation observed that there were no good working relations between the metropolitan and the two metropolitan municipalities. That became evident when the delegation was informed that there were projects that were implemented by the metros without the approval of the provincial department. That had resulted in some project to move slowly and some were blocked due to lack of funding;
- Some of the projects were not registered with NHBRC;
- There was a lack of compliance with norms and standards in most projects such as Joe Slovo 614. The housing units build did not have aprons and gutters as a result water was damaging the soil around the house.

- Lack of monitoring of land invasion by the relevant or mandated department resulting in illegally occupation of prime land. Most of the invaders finds themselves protected by the PIE Act, as a result well located land was a challenge.
- It was alleged that there was political interference in the allocation of houses.

11. Committee Recommendations

The Committee, having been briefed by the Eastern Cape Department of Human Settlements and two metropolitan municipalities and visited various projects, recommends that the Minister of Human Settlements should:

- Ensure that there are improved Intergovernmental Relations between the two metropolitan municipalities and the provincial department;
- Ensure that all the projects that were implemented are registered with NHBRC to curb poor or shoddy workmanship. This would also assist in ensuring that norms and standards were met;
- Ensure that available land was monitored by the relevant department within the provincial or municipal offices to prevent it from land invasion or illegally occupied;
- Intervene and assist the provincial and BCM municipality in ensuring that the de-densification of C Section in Duncan Village was done speedily as the community was residing under unsuitable conditions;
- Intervene in the management of beneficiary list in the province as most projects were blocked and some delayed due to lack of proper allocation list;
- Liaise with the Minister of Energy to prioritise the installation of electricity in the completed houses was necessary to prevent illegal occupation and vandalism.

Report to be considered.

National Council of Provinces

REPORT OF THE SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS ON THE TOLBAT PETITION, DATED 23 NOVEMBER 2016

1. BACKGROUND

The Tolbat petition (petition), dated 8 November 2014, was submitted to the Office of the Chairperson of the National Council of Provinces (NCOP) on 2 February 2015 and subsequently referred to Select Committee on Petitions and Executive Undertakings (Committee) for its consideration and resolution on 26 February 2015.

The petition was submitted by Mr MS Nkohla (the petitioner) on behalf of Mr Phumlani Tolbat (Mr Tolbat).

The petition pertains to the alleged illegal occupation of an RDP house owned by Mr Tolbat. According to the petition, the house in question, is situated on ERF 1606 NU 1, in Mdantsane Township, Eastern Cape Province and was formerly owned and registered in the name of Mr Tolbat's late grandmother, Ms NG Tolbat (Ms Tolbat).

Further according to the petition, following the passing of Ms Tolbat, on 31 October 2006, Mr Tolbat was given the authority in terms of Section 18(3) of the Administration of Estates Act (Act No. 66 of 1965 (as amended)) to take control of the assets in Ms Tolbat's estate and the house was the only asset in her estate.

The petition also states that Mr Tolbat was given the requisite letter of authority by the Master of the Eastern Cape High Court in Bisho, on 20 October 2011. The petition further asserts that notwithstanding, that Mr Tolbat is in possession of the letter of authority from the Master of the High Court, the Buffalo City Municipality and its Mayoral Committee have failed to assist Mr Tolbat in ensuring the house is registered in his name and this has resulted in the house being illegally occupied by someone else and in Mr Tolbat having no place to stay.

The petition requests the intervention of the NCOP in ensuring that the house is registered in the name of Mr Tolbat and he takes occupation of the house.

2. CANCELLATION OF THE HEARING ON THE PETITION

Following the referral of the petition to the Committee, the Committee took a decision to hold a hearing on the petition 10 June 2015. However, in the course of preparing for the hearing on the petition, on 20 May 2015, the Committee Secretariat (i.e. the Committee Secretary and Committee Assistant) was informed by the petitioner that Mr Tolbat is now occupying the house and the previous occupants of the house have been evicted from the house.

The petitioner further informed the Committee Secretariat that Mr Tolbat no longer requires the intervention of the NCOP as the house is in the process of being registered in his name. It was on this basis that the Committee Secretariat advised the Committee to cancel the scheduled hearing on the petition.

The Committee, subsequently, resolved that before it can consider the petition closed it requires a letter from the petitioner confirming the following:

- 2.1 That the complaint of the alleged illegal occupation of the RDP house owned by Mr Tolbat, (situated on ERF 1606 NU 1, Mdantsane Township, Eastern Cape Province) has been resolved;
- 2.2 The manner in which the complaint was resolved; and
- 2.3 That the petitioner no longer seeks the intervention of the NCOP in resolving the complaint.

3. RECOMMENDATION

On 15 November 2016 the Committee received a letter from the petitioner confirming that the complaint was successfully resolved after Mr Tolbat and the petitioner lodged a case with the NU 1 Mdantsane Rent Office. The letter further confirms Mr Tolbat is now occupying the house in question and the petitioner no longer requires the intervention of the NCOP in resolving the complaint. The Committee, accordingly, resolved to close the petition.

The Committee further resolved that the Chairperson is to issue a press statement highlighting the challenges encountered by Mr Tolbat and other beneficiaries of RDP houses and the available legal recourse for such challenges.

Report to be tabled for consideration.

2. REPORT OF THE SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS ON THE HEARING OF THE TRANSKEI ROAD TRANSPORT CORPORATION PETITION HELD, ON 10 SEPTEMBER 2015, AT GARDEN COURT HOTEL, MTHATHA, EASTERN CAPE PROVINCE, DATED 23 NOVEMBER 2016

1. BACKGROUND

The Transkei Road Transport Corporation Petition (TRTC) petition (petition) was received by the Office of the Chairperson of the National Council of Provinces (NCOP) on 1 December 2014 and subsequently referred to the Select Committee on Petitions and Executive Undertakings (Committee) for its consideration and resolution.

The petition was submitted to the Chairperson of the NCOP by the late Mr M Mahlahla, Mr A Z Dumalisile and Mr NJ Nodayinge (petitioners) on behalf of former employees of TRTC'S Mthatha Depot.

The petition requests the intervention of the NCOP in assisting the petitioners to receive various benefits; namely pension benefits, unpaid leave and UIF related benefits, which they are entitled to receive as former employees of TRTC. TRTC, a former parastatal bus company, was dissolved and liquidated in terms of a government proclamation on 18 January 1996 and the petitioners contend they were not paid out the benefits at the dissolution of TRTC. The petition further stipulates that at the time when TRTC was dissolved and liquidated an undertaking was given by the management of TRTC that the entity would resume with its operations in March 1997 but this did not happen and as a result, the petitioners, along with other former employees of TRTC, were left unemployed.

It is also important to make mention of the fact that the petition submitted to the NCOP by the petitioners was accompanied by correspondence written by the petitioners and appealing to, amongst others, the President of the Republic of South Africa and former Major General HB Holomisa for their intervention in ensuring they were paid their benefits in this regard.

2. PURPOSE OF THE HEARING

The purpose of the hearing was to afford the petitioners, as well relevant stakeholders, with an opportunity to make oral submissions to the Committee in relation to the petition submitted to Parliament.

3. COMMITTEE MEMBERS AND OFFICIALS

The hearing on the petition was attended by the following Committee Members:

- 3.1 Hon S G Thobejane, ANC, Limpopo (Chairperson of the Committee);

- 3.2 Hon LPM Nzimande, ANC, Kwa-Zulu Natal;
- 3.3 Hon M T Mhlanga, ANC, Mpumalanga;
- 3.4 Hon G M Manopole, ANC, Northern Cape;
- 3.5 Hon J W W Julius, DA, Gauteng;
- 3.6 Hon M Chetty, DA, Kwa-Zulu Natal;
- 3.7 Hon D L Ximbi, ANC, Western Cape; and
- 3.8 Hon T Wana, ANC, Eastern Cape.

The Members present at the hearing were supported by the following officials:

- 3.9 Mr N Mkhize (Committee Secretary);
- 3.10 Dr M Gondwe (Content Advisor); and
- 3.11 Mr N Mangweni (Committee Assistant).

4. STAKEHOLDERS IN ATTENDANCE

The hearing was attended by the stakeholders:

- 4.1 Mr Mpongwana, Petitioner;
- 4.2 Mr Z Dumalisile, Petitioner;
- 4.3 Mr Julius, Petitioner;
- 4.4 Mr B Gama, Chief Director in the Provincial Department of Labour;
and
- 4.5 Mr D Munton, Eastern Cape Head of Alexander Forbes (via teleconferencing); and
- 4.6 Former employees of TRTC's Mthatha Depot and former employees of TRTC's Butterworth Depot.

Invitations to make submissions, before the Committee, were extended to the Provincial Department of Transport, Safety and Liaison; the Office of the Premier in the Eastern Cape; the Provincial Department of Labour and Alexander Forbes however only the latter two stakeholders (.i.e. Provincial Department of Labour and Alexander Forbes) attended the hearing and made oral submissions to the Committee.

5. SUBMISSIONS BY THE PETITIONERS

5.1 Submissions by Former Employees of TRTC's Mthatha Depot

5.1.1 Submissions by Mr Mpongwana

Mr Mpongwana, began his submissions by informing the Committee that he is a former employee of TRTC and is currently resident in Mthatha. He further informed the Committee that he had first heard about the liquidation of TRTC over the radio and as employees of TRTC they were not informed or consulted about its liquidation.

Further, according to Mr Mpongwana, following the liquidation of TRTC, he and other former employees of TRTC had unsuccessfully tried by all means to get all monies due to them paid out by TRTC. He further stated that they had also appealed to Premiers Stofile and Balindlela but received little or no assistance. Mr Mpogwana also explained that at some stage they were referred to Mr De Vries, a representative of the Department of Transport, and he too was unable to assist them. Thereafter they had approached Mr Delport and requested him to take their matter to court. And during the court proceedings, the presiding judge expressed the view that their matter should ideally be resolved outside the court because it involved large amounts of money.

Mr Mpongwana further explained that under the leadership of the late Mr Mahlahla they had also approached Mr Njikelane (the former Chairperson of the Portfolio on Communications) who had advised them to refer their petition to the Union Buildings because it fell outside the jurisdiction of Parliament. The petitioners also informed the Committee that they had also approached the Office of the Public Protector and Hon Holomisa for assistance but to no avail and had therefore taken the decision to approach the Committee as a last resort.

5.1.2 Submissions by Mr Dumalisile

In his submissions to the Committee, Mr Dumalisile, indicated that, with the assistance of Mr Delpont and Mr Maki, they had also taken their matter to the Legislature in Bisho. And Mr Trent from the Legislature had given them a return date on which their matter would be given consideration by the Legislature. He further submitted, that although they were unable to make the return date because of transport challenges, they were later given an indication that their matter had fallen on sympathetic ears. Mr Dumalisile also informed the Committee that, under the leadership of the late Mr Mahlahla, they also subsequently took the decision to withdraw the services of Mr Delpont as they felt the matter could be resolved outside the courtroom.

5.1.3 Submissions by Mr Julius

In his submissions to the Committee, Mr Julius revealed that prior to the liquidation of TRTC, on 31 March 1996, they were informed that TRTC and Algoa would be amalgamated to form a new entity. He further revealed that they were also informed that TRTC would only be closed for a minimal period and during its closure it would undergo an internal audit for purposes of paving the way for the new entity which would be established. Mr Julius further informed the Committee they were given assurances that they would be accommodated as employees under the new entity. He further stated that they were promised that the new entity would see to it they received whatever benefits were still due to them.

5.1.4 Relief sought

With regards to the relief sought, the petitioners indicated that because they were only given a small advance to see them through until the new entity had begun its operations they would like the Committee to investigate why TRTC never reopened despite promises that it would reopen. The petitioners also requested the Committee to look into why they were not paid out all the

benefits due to them. Lastly, the petitioners requested the Committee to assist them in obtaining clarity in relation to the criteria used to determine the amount to be paid to each employee.

5.2 Submissions by Former Employees of TRTC's Butterworth Depot

5.2.1 Submissions by Mr Mbethe

In his submissions to the Committee, Mr Mbethe submitted that prior to the liquidation of TRTC he had been one of the 1680 individuals employed at TRTC's Butterworth Depot. Also according to Mr Mbethe, this particular Depot was closed on 17 July 1995 after an agreement was reached, between the Government and the Transport and the General Workers Union on 7 November 1995. Mr Mbethe also mentioned that Government had failed to comply with this agreement.

5.2.2 Submissions by Mr Zingisile

Mr Zingisile also submitted that he had been employed at TRTC's Butterworth Depot. He further submitted that he believed TRTC was liquidated because of a lack of managerial and leadership skills in the relevant Minister. He added that the assets of TRTC were not auctioned and no judge was appointed to oversee its liquidation, it was simply closed down. And upon its closure they were promised re-employment but this never happened and has had a negative impact on their lives and that of their dependants.

5.2.3 Mr Mbokoto

Mr Mbokoto also made submissions on behalf of ex-employees of TRTC's Butterworth Depot. And in his submissions to the Committee he indicated that he simply wished to express his dissatisfaction with the manner in which their employment was terminated. He further explained that he had worked for TRTC, for a period of 15 years as a mechanic and upon its

closure he had been given a mere R5000 (five thousand rand). Also in his submissions, Mr Mbokoto confirmed withdrew the services of Mr Delpont. He further added that this was done because Mr Delpont demanded an amount of R250 000 (two hundred and fifty thousand rand) from them as payment for the services he had rendered and they could not afford this money.

5.2.4 Relief sought

As regards the relief sought, the former employees of TRTC's Butterworth Depot requested the Committee to intervene in ensuring that their benefits are paid out by Government.

6. SUBMISSIONS BY THE PROVINCIAL DEPARTMENT OF LABOUR

In his submissions to the Committee, Mr Gama explained that at the time that TRTC was liquidated, what is, today, known as the Unemployment Insurance Fund (UIF) was known as the Blue Card and the relevant piece of legislation then was the Workman's Compensation Act of 1923 and not Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA). He further noted that it was unclear to him what UIF payments were still due to the petitioners as his Department's institutional memory did not have this information.

Further in his submissions to the Committee, Mr Gama indicated that because his Department's mandate does not extend to issues relating to provident and pension funds, it was difficult for him to make submissions on the benefits due to the petitioners in this regard.

Mr Gama also pointed out that given that the circumstances surrounding the petition took place at a different time in the country's legislative framework, he was unable to shed much light on what should have, legally, happened then. He did however state that in terms of the current labour legislation,

severance pay disputes are handled by the CCMA and the referral of such disputes is done 30 days after the closure of a company and following the liquidation of a company, any payments due to its former employees were often paid out after the sale of the assets of the company and no liquidator was appointed to oversee the process.

7. SUBMISSIONS BY ALEXANDER FORBES

The submissions by the Eastern Cape Head of Alexander Forbes, Mr Dereck Munton, were made via teleconferencing.

In his submissions to the Committee, Mr Munton confirmed that Alexander Forbes was the fund manager for TRTC's pension and provident fund up until its liquidation in 1995. He further submitted that following the liquidation of TRTC, Price Waterhouse Coopers had carried out an audit and the adjudicator ruling in this regard had determined that a significant number of former employees of TRTC were paid out their benefits on the basis of their contribution record. Mr Munton also noted that the adjudicator ruling had set aside the unclaimed benefits and transferred them into an unclaimed benefits fund with the option, for beneficiaries, to claim from the fund.

Mr Munton further informed the Committee that he had access to a list containing the names of 430 beneficiaries (who are all former employees of various corporations in former TVBC states) who had not yet claimed from the fund and it was difficult for him to disclose the identity of these beneficiaries because the information on the beneficiaries is categorised as personal information in terms of the Protection of Personal Information Act 4 of 2013. He also noted that former members of the fund could claim from the fund by submitting a formal application and supporting documentation and if their claim proved successful, their benefits as well as any accruing interest would be paid over to them together.

In concluding his submissions, Mr Munton cautioned the Committee that it should be mindful of the fact that at the time of its liquidation, TRTC was insolvent and had owed the fund monies as it had failed to pay over some of its employee contributions.

8. OBSERVATIONS AND FINDINGS

The Committee made the following observations and findings during the hearing on the petition:

- 8.1 Former employees of TRTC can be divided into two main groups. The first group is comprised of former employees of TRTC's Mthatha Depot and the second group is comprised of former employees of TRTC's Butterworth Depot.
- 8.2 The former employees of TRTC's Butterworth Depot share similar grievances to those shared by the petitioners (who are former employees of TRTC's Butterworth Depot).
- 8.3 Mr Delpont had been referred to the petitioners by Mr Maki and Mr Delpont had represented the petitioners when the matter went before court but his services were later withdrawn.
- 8.4 Mr Munton has access to a list of 430 beneficiaries who have, to date, not claimed from the fund.
- 8.5 The assets of TRTC were sold off, following its liquidation, however it is unclear what happened to the proceeds of the assets.

9. RECOMMENDATIONS

After deliberating on the submissions made during the hearings on the petition, the Committee made the following recommendations:

- 9.1 Treasury is to spearhead an urgent investigation into the issues raised in the petition.
- 9.2 This investigation is to include all the affected stakeholders (i.e. the Department of Labour, Department of Transport and Eastern Cape Provincial Government) and the implicated financial institutions (i.e. First National Bank, Price Waterhouse Coopers and Alexander Forbes).
- 9.3 The investigation is to further entail, *inter alia*, an audit into the number of employees TRTC had prior to its liquidation; the number of TRTC employees which received benefits post its liquidation; and the assets held by TRTC prior to its liquidation.
- 9.4 The investigation is to be completed within 6 months of the adoption of this report by the House.
- 9.5 Following the completion of the investigation, the affected stakeholders are to appear before the Committee, and report on the outcomes of the investigation as well as propose a way forward.
- 9.6 Parliament is to be the overall coordinator of the investigation and is to coordinate the investigation through the relevant Select Committees, namely the Select Committee on Labour and Public Enterprises and Select Committee on Finance.
- 9.7 Parliament is to, further, initiate a process aimed at ensuring that previous pieces of legislation are aligned to suit the current state of affairs.

Report to be tabled for consideration.