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**PARLIAMENT  
OF THE  
REPUBLIC OF SOUTH AFRICA**

**ANNOUNCEMENTS, TABLINGS AND COMMITTEE  
REPORTS**

WEDNESDAY, 16 OCTOBER 2019

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**COMMITTEE REPORTS**

**National Assembly**

**1. Second Report of National Assembly Rules Committee, 2019**

The Speaker of the National Assembly, as Chairperson of the National Assembly Rules Committee, presents the Second Report of the Rules Committee as follows:

**A. GUIDELINES**

The committee, on 5 June 2019, agreed to the sequence for questions, members' statements and motions without notice. On implementation it was apparent that the order should reflect

party strength in the Assembly. On 10 September 2019 the committee agreed to align the sequence for members' statements and motions without notice with the agreed sequence for questions.

**(i) Members Statements**

In terms of Rule 132(4), the number of members' statements on any sitting day, the period of time within which such statements must be completed on that day and the sequence of party participation must be determined by the Rules Committee. It was agreed that the 17 statements be taken in the following sequence, based on the strength of party representation in the Assembly, for the duration of the Sixth Parliament:

ANC, DA, EFF, ANC, IFP, FF Plus, ANC, DA, Group 1, ANC, Group 2, ANC, DA, EFF, ANC, Group 3 and ANC.

**(ii) Motions without Notice**

In terms of Rule 123(2)(b), the number of motions without notice on any sitting day, the period of time within such motions must be completed on that day and the sequence of party participation must be determined by the Rules Committee.

The number of motions without notice on any sitting day for the duration of the Sixth Parliament was determined at 23, and the following sequence to correctly reflect party strength would apply:

ANC, DA, EFF, ANC, IFP, FF Plus, ANC, ACDP, UDM, ATM, DA, EFF, ANC, Good, NFP, ANC, AIC, COPE, ANC, DA, PAC, Al Jama-ah and ANC.

**(iii) Notices of Motion**

In terms of Rule 124(2), the number of notices of motion on any sitting day and the period of time within which such motions must be completed on that day must be determined by the Programme Committee in accordance with Rule 210.

## **B. RE-ASSIGNMENT OF OVERSIGHT RESPONSIBILITY OVER THE MDDA AND GCIS**

Rule 225 provides that the Speaker, acting with the concurrence of the Rules Committee, establish a range of portfolio committees, assign a portfolio of government affairs to each committee and determine a name for each committee.

A request was received from the Minister in the Presidency, requesting that the oversight responsibility over the Media Development and Diversity Agency (MDDA) and Government Communications and Information Services (GCIS) be transferred from the Portfolio Committee on Public Service and Administration to the Portfolio Committee on Communications. The Rules Committee concurred with the Speaker to allow the transfer of oversight over the MDDA and GCIS to the Portfolio Committee on Communications.

## **2. Report of the Standing Committee on Public Accounts on its oversight visit to ESKOM and its projects of Medupi and Kusile, from 26 to 30 August 2019, dated 16 October 2019.**

### **1. Introduction**

The Standing Committee on Public Accounts (the Committee), having undertaken an oversight visit to ESKOM and its infrastructure projects Medupi and Kusile in Lephalale and Witbank, respectively, from 26 to 30 August 2019, in terms of Part 13, Section 245 (1) (d) of the Rules of the National Assembly reports its findings and recommendations to the House as follows:

#### **Delegation:**

Mr M Hlengwa (IFP), Chairperson, leader of the delegation;

Mr M Dirks (ANC);

Mr S Somyo (ANC);

Ms T Zibula (ANC);

Mr A Lees (DA);

M B van Minnen (DA);

**Apologies:**

Ms N Tolashe (ANC);

Ms V Mente (EFF);

**Support staff:**

Mr B Kali (Committee Secretary)

Ms G Shabalala (Researcher)

Ms N Cenge (Content Advisor)

Ms F Ndenze (Parliamentary Communication Officer)

Mr L Balfour (Committee Assistant)

**ESKOM delegation:**

Mr Jabulane Mabuza (Interim Executive Chairman)

Mr Jan Oberholzer (Chief Operating Officer)

Mr Calib Cassim (Chief Finance Officer)

Ms Elsie Pule (Group Executive: Human Resources)

Mr Bheki Nxumalo (Group Executive: Generation)

Mr Jerome Mthembu (Group Executive: Legal)

Mr Bartlett Hewu (Group Executive: Compliance)

Ms Lwanda Zingitwa (Chief Officer Staffing)

Mr Solly Tshitangano (General Manager: Procurement)

Ms Raeesah Waja (General Manager: Corporate Affairs)

Ms Dikatso Mothae (Chief Advisor Spokesperson)

Mr Maphelo Mvunelwa (Middle Manager Parliament)

Mr Donald Nkadimeng (Senior Specialist for Financial Assessment and Investment Support: DPE)

**2. Background**

ESKOM has been receiving qualified audits for three years; 2017, 2018 and 2019. It suffered a R2.3 billion losses, R19.6 billion in irregular expenditure, and a debt of R380

billion in 2018. In addition, ESKOM faced several challenges including liquidity issues, leadership and governance issues, as well as operational challenges such as shortages and quality of coal, and power outages.

ESKOM's two new power stations, Medupi and Kusile, which were intended to come on-stream with additional capacity and provide a buffer for Eskom's existing coal fleet, performed very poorly and are behind schedule. The building of these coal-fired power stations, which started in 2007 and 2008, has been hit by cost overruns, poor engineering designs, labour problems and allegations of corruption. The projects were initially budgeted at R79 billion for Medupi and R81 billion for Kusile. However, due to delays and other defects identified during and post construction, the costs of the projects have increased by more than R300 billion, currently reaching R145 billion for Medupi and R161.4 billion for Kusile. The Medupi project commenced in 2007 and was scheduled to be completed in 2012, but it is still not fully functional. The Kusile project commenced in 2008 and the projected completion date is now 2023.

The problems started back in 2008/2009 during the design stage towards the 2010 World Cup and the projected increases in demand for power. Part of the pressure to construct the power stations was due to the impending Soccer World Cup. In 2005/2006 ESKOM was given a year to prepare for the project, when it would have been more feasible to have been given 3 years for more detailed research, design and testing. As a result of insufficient time for design and testing, there were quality issues and fraudulent activities. Lack of adequate expertise was evident in welding issues on some units. A decision was made at high level to get some plants up and running without adequate design planning and execution. ESKOM engineers picked up some defects and the service provider was alerted thereto, but these were never addressed. This was part of what led to the load shedding in 2015. During a performance test, Unit 4 of Medupi exhibited some defects. Contractors claimed that the coal quality was not good enough.

Defects were dealt with in isolation instead of being addressed within the context of an entire system. Contractors would take 2 years trying to resolve these technical defects while load shedding and power outages affected the country and the economy. This has a negative effect on the national economy. Medupi has been functioning better from March 2019 up to now, which is what helped to avoid load shedding.

The maintenance costs to address the defects have been estimated at R7 billion for Medupi and R285 million for Kusile. These two projects are mainly funded through loans from various financial institutions, including the World Bank, the African Development Bank and China Development Bank, amongst others. The increasing debt burden on the fiscus resulting from ESKOM bail-outs warrants intense oversight on cost escalations and infrastructure planning of ESKOM.

Before the Committee visited the project sites, it met with the auditors Sizwe Ntsaluba Gobodo (SNG), the company that did the audit for ESKOM, in order to gain some background information on their findings.

### **3. Objectives**

The Committee's main objective was to observe first hand and obtain information on the current state of the two projects, and find out what has led to the delays and cost escalations.

### **4. Findings**

#### **4.1 Medupi Power Station**

The Medupi Power Station project is located in Lephalale, Limpopo. It is a green-fields coal fired power plant and it is the first base load station to be built by ESKOM in twenty years, after Majuba Power station. In identifying the location, ESKOM undertook feasibility studies in order to determine the most viable plant location for the Medupi power station. Some of the criteria used included the availability and accessibility of primary resources such as coal and water; the ability of the new power station to connect to the existing network/grid; environmental acceptability; as well as cost of production.

The Waterberg coalfields and the Lephalale area in the vicinity of the existing Matimba Power Station were ESKOM's favourable option for the establishment of a new coal-fired power station, due to, inter alia:

- a. Land availability in close proximity to the primary coal source;

- b. Properties of coal in the area being well known due to the existing Matimba Power Station;
- c. Competitive coal process; and
- d. Low environmental impact on the chosen sites.

The Medupi Power Station receives all its coal requirements from the Grootegeeluk Mines / Exxaro Coal (Pty) Ltd. Coal is delivered from the mine via a conveyor belt. The coal deliveries are governed by the Coal Supply Agreement (CSA) between the two parties, ESKOM and Exxaro. The contract was signed in September 2008 and the term of the CSA is for 49 years. The type of contract between ESKOM and Exxaro is a “take or pay contract”, in terms of which the coal suppliers require certainty of coal offtake by ESKOM in order to meet the buyer’s supply, run their operations, repay their capital and operating expenses as well as earn a shareholder return. The supplier (Exxaro) and the buyer (ESKOM) agree on a minimum or guaranteed offtake of coal by a certain date. Should these not be met, a take or pay penalty is levied against ESKOM. Similarly, if the supplier cannot deliver the agreed amount of coal, a take or pay penalty is levied against the supplier. Due to construction delays at the Medupi Power Station, ESKOM was not ready to receive coal from the supplier, this penalty has not been commercially favourable for ESKOM, hence it has built an additional stockpile for the coal while the building of the power station and ramp up of production continues to increase. The additional stockpiles mitigate the take or pay penalty.

The following findings were made at Medupi:

- 4.1.1 ESKOM had only one year to prepare for the project, instead of three years required for research, planning and testing.
- 4.1.2 The construction unit comprised six generation units with an installed capacity of 400 megawatts;
- 4.1.3 Currently, five out of six units are working;
- 4.1.4 Several serious design faults were identified;
- 4.1.5 Some defects were not picked up until after construction was done, and this led to delayed commissioning of certain units such as Unit 4;
- 4.1.6 The placing of the boilers was rushed;

- 4.1.7 Some units such as Unit 4 had defects that the contractor blamed on coal quality;
- 4.1.8 Workers employed by sub-contractors were not qualified;
- 4.1.9 The quality of coal was not consistent;
- 4.1.10 Contract management skills are a challenge;
- 4.1.11 Proper governance and processes on supply chain were not followed;
- 4.1.12 There has been full load losses and trips in the system;
- 4.1.13 ESKOM has no turnaround time for coal which must be blended;
- 4.1.14 Medupi has wet coal management systems;
- 4.1.15 Sampling is done on delivery to verify the quality of coal;
- 4.1.16 The contractor, Clyde Bergemann Africa, for the fabric filter ceased work in October 2018 due to the business being in “business rescue”;
- 4.1.17 Due to project delays in Medupi, some contractors suffered;
- 4.1.18 The milling does not grind as it should. The contractor, Hitachi, blamed the quality of the coal procured by ESKOM;
- 4.1.19 Increases in store holding costs in June 2019 led to cost escalations on overheads.
- 4.1.20 The Committee was further informed that:
  - a. The spray water-cooling system could not cope with the high temperatures of the furnace exit gas, and this in turn was due to the furnace being shorter than required. The boiler design height should have been approximately 13 metres higher in order for the exit gas temperature to be as per the design requirements;
  - b. Under normal operational conditions the furnace exit gas temperatures (FEGT) had turned out to be considerably higher than the maximum design temperature. In addition, the Reheater (RH) spray flows exceeded the boiler contractual requirement due to poor evaporator heat absorbance;
  - c. The excessively high exit gas temperatures were mainly a result of the type of coal used i.e. a coal very high in volatiles. This type of coal is apparently very different from coal used in similar power stations in other parts of the world. Apparently a similar problem



high exit gas temperature was encountered when the Kriel power station was built in the 1970's;

d. The excessively high exit gas temperature had resulted in a shortened life, as low as six months, of the Dust Accumulator bags in place of the design life of two years for these bags.

## **4.2 Kusile Power Station**

The Kusile Power Station is Located near Witbank in Mpumalanga. One of the deciding factors for its location was its proximity to a coal mine, which meant less transportation costs for the needed coal. The former agreement entered into by ESKOM with a contractor was later cancelled. Kusile consists of six units, each designed to generate approximately 800 Megawatt (MW), contributing to a total of 4 800 MW to the grid.

The following findings were made at Kusile:

- 4.2.1 The project is also behind schedule;
- 4.2.2 Kusile has six units and only two of those have been commissioned;
- 4.2.3 There is a high turnover of project managers. The project has had 4 project managers and acting project managers so far. The current project manager was appointed early this year (2019);
- 4.2.4 Coal is delivered to Kusile from contracted mines around Delmas and Bronkhorstspuit and is delivered to the stock yard by over 400 trucks per day for three units. This results in congestion and security problems, and is a major impediment in the long term viability of the plant. This also results in cost escalation that may not be ameliorated soon.
- 4.2.5 Coal is transported by trucks due to the non-development of the New Largo Coal Field, located nearby. Subsequently, this coal field has been sold to Seriti Holdings and, if negotiations, due to commence in 2020, are successful, this coal field will be developed. This field will be supplying Kusile for a 40-year agreement to supply 12 million tons of coal per year;
- 4.2.6 800 000 tons of coal are currently on reserve.

### **4.3 Governance and contract management**

The following findings were made with regard to governance issues:

- 4.3.1 There were some ESKOM employees doing business with ESKOM;
- 4.3.2 In most instances there was no paper trail to verify that supply chain management processes were followed;
- 4.3.3 In some instances, payments were made without work being carried out;
- 4.3.4 Contracts which had expired were not advertised on time.

## **5. Meeting with ESKOM officials**

ESKOM officials conceded that the design for the projects was flawed, and reiterated that most of the problems with the Medupi and Kusile projects emanated from the fact that one year of planning was insufficient. There was pressure on local contractors to perform according to international standards. Contractors accepted the challenge but could not perform to the expected standard. Some of them have become bankrupt in the process. The ensuing problems, however, are still not being resolved. Specifications for the projects were issued but ESKOM never got what was ordered. Litigation is expected to follow in some matters. Technical solutions were called for from the contractors but these were not forthcoming. Penalties were not issued upon failure of the contractors to implement solutions. Short term solutions were thus implemented while waiting for Mitsubishi Hitachi Power Systems Africa to effect permanent solutions. Further solution to the excess exhaust, fumes will be effected in the next two years. Mitsubishi had offered to effect modifications but these are still not adequate, and certainly not what ESKOM has paid for.

Due to labour unrest in the initial stages, a total of 18 months of progress was lost. Penalties were being implemented where necessary, as provided for in all contracts where low performance was identified. There was contamination of coal which led to disqualifying certain contractors. Design was also a factor, where sometimes plants

have had to be shut down to address faults. The one critical decision taken was for older plants within the Eskom network to not be maintained but rather to focus on new ventures.

There is high level of security and capacity concerns regarding the trucking of coal loads into the Kusile premises. A project is under way to relocate the delivery site outside the premises. A contract for this coal off-loading facility is under way, and is envisaged to be completed in two years. The cost analysis in this regard would best be done by Head Office. There is also an intention to have more weighbridges to facilitate truck traffic until the completion of the off-site project. There is a concern regarding the financial impact of the failure to secure a coal mine on the New Largo Coal Field originally owned by Anglo Coal, and the costs for this trucking operation are budgeted for in the operational budget, with its costs not being reflected in the capital budget despite these costs being a direct consequence of the poor management of the project design and implementation.

Dust suppression in the ash dump area has been achieved by the use of water. When the dump reaches a certain height, it is levelled and covered with topsoil. This exercise is managed in collaboration with local authorities and environmentalists. There does not appear to be a fail-proof method of dust suppression as on the day of the SCOPA visit massive clouds of dust were seen to be emanating from the huge ash dump.

Variation of contracts are also potentially very problematic. This is because there is no tender process with a variation and the process is open to manipulation and cost inflation. There have been reported issues of corruption where investigations by the HAWKS and the SIU have been initiated.

## **6. Recommendations**

The Committee recommends as follows:

- 6.1** Contracts must be managed properly by suitably skilled and qualified people to ensure that expiring contracts are identified timeously and the appointment of contractors is done through an open market process;

- 6.2** There must be no restrictions made for ESKOM to employ suitably qualified and skilled employees and contractors to ensure that the Medupi and Kusile projects are completed on time and are operated at maximum efficiency;
- 6.3** Proper document management systems must be in place to create a paper trail for all transactions, in compliance with the Companies Act;
- 6.4** Skilled personnel must be employed in the supply chain management unit at head office, as well as at different projects where procurement takes place;
- 6.5** Vetting of all supply chain practitioners, managers and the Board must be implemented immediately, for the head office as well as other centres where procurement takes place, and a report on this must be sent to SCOPA within 60 days from the adoption of this report by the National Assembly;
- 6.6** Compulsory declarations of interest must be done by all Senior Managers and Directors, at the very least annually, and declarations must be enforced immediately in instances where they have not been done, in order to avoid employees and Directors and their family members doing business with ESKOM;
- 6.7** Internal investigations must be speeded up and finalised by the 31st of March 2020;
- 6.8** Financial losses to ESKOM must be recovered from those responsible, where wrongdoing has been established;
- 6.9** Consequence management must be followed through where wrongdoing has been proven, and quarterly reports in this regard should be submitted to SCOPA;
- 6.10** The internal audit unit must be capacitated and fully functional at head office and other cost centres so that early warning signs of corruption and maladministration are picked up;
- 6.11** All previous employees that have left the employ of ESKOM and who have been implicated in malfeasance of any sort must, in collaboration with law enforcement agencies such as the NPA and the HAWKS, have criminal charges instituted against them;
- 6.12** Before payments to suppliers are made, proper controls must be implemented through documented checks and balances. This is to ensure that payments are made for value received and are not advance payments for which non commensurate, or worse no value at all, is received;

- 6.13** Existing contracts which are due to expire must not be extended through variation orders without a proper due diligence being done, which due diligence records must be kept on file for audit purposes;
- 6.14** Defects identified at Medupi and Kusile must be corrected expeditiously to avoid further project delays and cost escalations;
- 6.15** The issue of responsibility by contractors for defects must be followed up and the contractors must be held responsible for costs where necessary;
- 6.16** Coal quality must be prioritised and checked regularly;
- 6.17** Retention bonds must be used against contractors as a recourse for delays and sub-standard work that has been performed;
- 6.18** There must be stability of project managers at Kusile to avoid delays;
- 6.19** Weighbridges and off-loading facilities must be constructed at Kusile to transport coal from the mine to the plant. Negotiations for the development of the adjacent New Largo coal field must be fast tracked and concluded without further delays. A monthly executive summary on progress in this regard must be submitted to SCOPA;
- 6.20** The 'Take or Pay' system must be revisited and the cost-benefit analysis must be conducted to determine the viability of the system, and a report on this is sent to SCOPA within 60 days from the adoption of this report by the National Assembly;
- 6.21** The production of Gypsum should be processed further in order to capitalise on beneficiation for additional revenue for ESKOM;
- 6.22** Contractors must be held accountable for sub-standard work;
- 6.23** Both the Medupi and Kusile power stations must be completed on the revised times of 2020 and 2023, respectively. The ESKOM Board must, jointly and severally, be held accountable for any further delays, given the massive State bailouts that have been made available to ESKOM over the Medium Term Budget period. Quarterly reports on progress and expenditure must be submitted to SCOPA.

Report to be considered.

## **National Council of Provinces**

### **1. Report of the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements on Notice of Intervention, issued in terms of section 139(1)(c) of the Constitution, 1996 in Mamusa Local Municipality, dated 16 October 2019**

#### **1. Background and Overview**

- 1.1 The Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements, having received the referral from the National Council of Provinces (NCOP), to consider and report on the intervention notice invoked in Mamusa Local Municipality in terms of section 139(1)(c) of the Constitution, 1996 the Select Committee reports as follows:
- 1.2 In terms of NCOP Rule 101, the Office of the Chairperson of the NCOP referred the notice of intervention by the North West MEC for Cooperative Governance, Human Settlements and Traditional Affairs, to the Select Committee for consideration and report.
- 1.3 On 16 October 2019, the Select Committee was briefed by the MEC for Cooperative Governance, Human Settlements and Traditional Affairs on the constitutional, procedural and substantive matters related to the invocation of section 139(1)(c) of the Constitution in Mamusa Local Municipality.
- 1.4 The Select Committee also received a legal opinion and advice from the Parliamentary Legal Services on the consideration of the notice of intervention in Mamusa in respect of 139(1)(c) of the Constitution, and the litigation in terms of section 139(1)(b) of the Constitution by some municipalities in the Province of North West.

## **2. Briefing on intervention in terms of section 139(1)(c) of the Constitution in Mamusa Local Municipality**

- 2.1 On 16 October 2019, the MEC for Cooperative Governance, Human Settlements and Traditional Affairs briefed the Select Committee on Cooperative Governance and Traditional Affairs (Water, Sanitation and Human Settlements) on the substantive reasons, constitutional and procedural steps related to the intervention.
- 2.2 The presentation focused on service delivery, good governance and financial management challenges that triggered the invocation of section 139(1)(b) and the Provincial Executive Council's (PECs) decision to invoke section 139(1)(c) of the Constitution in the Municipality.
- 2.3 Each of the substantive matters that provided rational and justification for the invocation of section 139(1)(c) of the Constitution in the Municipality are reported in the proceeding sections.

## **3. Service Delivery Challenges that Triggered the Invocation of Section 139(1)(b) of the Constitution**

- 3.1 The service delivery challenges that prompted the assumption of executive obligations, included: poor maintenance of infrastructure; failure to collect refuse removal and cleaning of town and townships; interrupted supply of water due to the lack of maintenance; non-payment of water services; and the inability of the Municipality to spend its Municipal Infrastructure Grant (MIG) allocation. The MIG allocation stood at 32% as at the end of March 2019, and the expenditure was expected to be at least above 60%.

## **4. Good Governance and Administration Challenges that Triggered the Invocation of Section 139(1)(b) of the Constitution**

- 4.1 The challenges composed of the removal of the former Mayor and the suspension of the current Municipal Manager by the Council; non-payment of pension funds, medical aid and funeral policies of members due to cash flow challenges; poor audit outcomes,

with recurrent disclaimer audit findings for six (6) consecutive years: 2012/13; 2013/14; 2014/15; 2015/16; 2016/17 and 2017/18 and municipal backlog of over 09 financial years of oversight reports.

## **5. Financial Viability and Management Challenges that Triggered the Invocation of Section 139(1)(b) of the Constitution**

5.1 The financial viability and management challenges that prompted the assumption of executive obligations, included: non-tabling of the draft budget and Integrated Development Planning (IDP) for 2019/20 to the Municipal Council; structurally and imbalanced budget adopted for 2018/19 and the non-alignment with the IDP; outstanding debtor's amounts to the tune of R230 million as at February 2019, of which R210 million is outstanding for over 181 days; Municipality's inability to service the debt owed to the creditors, especially Eskom account.

The total debt owed to Eskom amounted to R57 million as at the end of February 2019, and failure to pay creditors within the legislative period of 30 days.

## **6. Progress on the Implementation of the Intervention in terms of Section 139(1)(b) of the Constitution in the Municipality**

6.1 The Intervention Team has managed to pay outstanding creditors and recovered all service delivery fleet equipment taken by the Sheriff (e.g. Refuse Truck, Sewerage Jet, Cherry Picker truck). The Municipality also managed to pay R7 million to Eskom. The Municipality has provided electricity in Schweizer-Reneke Town, Farms and Charon, while Eskom provided electricity in other towns.

6.2 The Municipality was busy with the drafting of water and sanitation maintenance plan, through the assistance of the Intervention Team. The Municipality will be the Implementing Agent of the MIG grant for the financial year 2019/20.

6.3 The Intervention Team managed to pay outstanding pensions and medical aid to date. It has a draft schedule of council meetings, which will be tabled at the next council meeting. It also managed to pay outstanding Ward Committee stipends for the period of three months.



6.4 As a form of consequence management, the Intervention Team suspended the Municipal Manager and the Chief Financial Officer. It has compiled the Annual Financial Statements (AFS) and the Annual Performance Report (Section 46). The Intervention Team was busy unlocking the withholding of the grants of the Extended Public Works Programme (EPWP), and ensuring the recruitment of EPWP is conducted in an open and transparent manner.

## **7. Deliberations, Observations and Opinion of the Select Committee**

7.1 The Select Committee has observed that the PEC at its meeting of the 25 September 2019 resolved, due to the deteriorating situation and non-corporation of the councillors in particular, to dissolve the Municipality by intervening through section 139(1)(c) of the Constitution, with immediate effect.

7.2 The Select Committee has noted that the PEC will appoint administrators who will implement the interventions on its behalf, with immediate effect for a period not more than 12 months.

7.3 The Select Committee has further noted that since the invocation of section 139(1)(b) of the Constitution, the situation in the Municipality has become worse than before and hence the invocation of section 139(1)(c) of the Constitution.

7.4 The situation referred above include absence of leadership, presence of two mayors within a short space of time, deep divisions in the council, lack of professional ethics amongst councillors, non-acceptance of administrators to implement the terms of reference in accordance with section 139(1)(b) of the Constitution, the need for the instituting of forensic investigation in terms of section 106 of the Municipal System Act to investigate allegations of rampant looting of municipal resources by councillors conniving with officials.

7.5 The Select Committee has noted that Section 152(1)(b) of the Constitution provides that a municipality must ensure the provision of services to communities in a sustainable manner. Section 152(1)(d) of the Constitution provides that the municipality must promote a safe and healthy environment.

- 7.6 In the opinion of the Select Committee, the service delivery failures, instability related to good governance, financial distress of the Municipality, inability to submit AFS and ensuring alignment of the budget with the IDP, has to a large extent, triggered the rationale and motivation for the invocation of section 139(1)(c) of the Constitution in the Municipality.
- 7.7 The Select Committee has noted that during its deliberations, the majority of political parties such as the African National Congress (ANC), Economic Freedom Fighters (EFF), Inkatha Freedom Party (IFP) and the Freedom Front Plus (FF+), supported the intervention on the basis of the substantive, procedural and constitutional matters in the Municipality, with the exception of the Democratic Alliance (DA).

## **8. Recommendations of the Select Committee**

- 8.1 Having deliberated on the notice of intervention in terms of section 139(1)(c) of the Constitution in Mamusa Local Municipality, and the legal opinion provided by the Parliamentary Legal Services, the Select Committee on Co-operative Governance and Traditional Affairs, Water, Sanitation and Human Settlements recommends as follows:
- 8.1.1 The NCOP approves the intervention in Mamusa Local Municipality in terms of section 139(1)(c) of the Constitution.
- 8.1.2 The North West Provincial Executive Council should ensure the appointment of qualified, competent Administrators who are vetted, who can implement the decision of the dissolution of the Municipality.
- 9.1.3 The North West MEC for Cooperative Governance, Human Settlements and Traditional Affairs should institute a forensic investigation in terms of section 106 of the Local Government: Municipal System Act, to investigate all allegations of rampant looting of municipal resources by councillors and other officials.
- 8.1.4 The North West MEC for Local Government and Human Settlements should provide the NCOP and the North West Provincial Legislature with quarterly

reports on the progress made in respect of the implementation of the intervention in the Municipality.

- 8.1.5 The North West MEC for Local Government and Human Settlements should table the report on the termination of the intervention in terms of section 139(1)(c) of the Constitution, to the NCOP and the North West Provincial Legislature.
- 8.1.6 The Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements, in co-operation with the relevant Portfolio Committee in the North West Provincial Legislature, should after the termination of the intervention, conduct a follow-up oversight visit to the Municipality in order to evaluate the impact of the dissolution of the Municipality in terms of section 139(1)(c) of the Constitution.

Report to be considered.