Friday, 12 June 2020]

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OF THE

REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

FRIDAY, 12 JUNE 2020

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ANNOUNCEMENTS

National Assembly

The Speaker

1. Bills returned to Assembly for consideration of President's Reservations

(1) A letter dated 2 June 2020 has been received from the President of the Republic, returning the **Liquor Products Amendment Bill** [B10B-2016] to the National Assembly for consideration of the President's reservations about its constitutionality.

02 June 2020

Dear Ms Thandi Modise, MP

LIQUOR PRODUCTS AMENDMENT BILL ("the Bill")

1. The above mentioned Bill was passed by Parliament and referred to me for assent and signing into law.

2. According to the preamble the Bill, amongst others, seeks to amend the Liquor Products Act 60 of 1989 ("the principal Act"), so as to insert:

   - certain definitions and to amend and delete others;
   - to provide for the renaming and reconstitution of the Wine and Spirit Board and to limit its powers;
   - to provide for requirements regarding beer, traditional African beer and other fermented beverages;
   - to repeal a provision in respect of the authorisations regarding certain alcoholic products;
   - to empower the Minister to designate a person to issue export certificates;
   - to align certain provisions with the Constitution;
   - To extend the Minister's power to make regulations; and
   - To provide gender-equal terminology.

3. I would like to draw the attention of the National Assembly to the following provisions of the Bill:

3.1 "***Ad clause 1***

Clause 1 of the Bill amongst others seeks to insert the following new definitions: "authority", "beer", "liquor product", "other fermented beverage", and "traditional African beer". The new definitions are defined as follows:

"Beer" refers to a product which meets requirements specified in section 6A of the Bill;

"Liquor product" means–

(a) wine;

(b) an alcoholic fruit beverage;

(c) beer;
<u>*(d)* traditional African beer;</u>
(e) other fermented beverage;
(f) a spirit;
(g) a grape-based liquor;
(h) a spirit-based liquor; and
(i) any liquor other than a product mentioned in paragraph *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, *(g)* or *(h)*, in respect of which an import certificate has been issued;

"other fermented beverage" refers to a product which meets requirements specified in section 6C of the Bill;

<u>"traditional African beer" refers to a product which meets requirements specified in section 6C of the Bill.</u>

3.2 ***Ad clause 5***

Clause 5 of the Bill inserts new sections 6A, 6B and 6C in the Principal Act. The new section 6B deals with the requirements regarding the Traditional African beer. According to section 6B traditional African beer shall:

- be produced by the alcoholic fermentation of malted grain of sorghum, maize, finger millet or pearl millet, or unmalted grain or meal of sorghum, maize, finger millet or pearl millet.
- be in a state of alcoholic fermentation, or not have its alcoholic fermentation arrested.
- contain at least four per cent solids derived from the grain or meal referred to in the Bill.
- and not contain or be flavoured with hops or any product derived from hops.

Section 6B goes further and provides that *"Traditional African beer shall also be a powder which comprises not more than three parts by mass of milled sorghum or maize malt, not less than seven parts by mass of milled, precooked maize or unmalted sorghum grain or meal, and does not contain or is not flavoured with hops or any product derived from hops, and be produced in such a manner that it is of a prescribed class and complies with the prescribed requirements for the class concerned, and should not contain a particular prescribed substance to a greater extent than that prescribed."*.

3.3 ***Ad clause 7***

Clause 7 amends section 11(2)*(c)* of the Principal Act, by inserting the following words "beer, traditional African beer and other fermented beverage.".

3.4 ***Ad clause 8***

Clause 8 amends section 16 of the Principal Act, by:

- Prohibiting import of any product with an alcohol content of more than 0.5% into the Republic for drinking purposes, except on the authority of an import certificate issued by the administering officer.
- Deleting the expression of "beer, sorghum beer and" in subsection (1)*(b)*(i).
- Inserting the cross-reference to of "beer", the "traditional African beer", and the "other fermented beverages", in subsection (3)*(a)*(i)."

4. Traditional beer is an intrinsic part of a number of cultural practices. Customary practices require its production and consumption be effected in a particular manner.

5. It is my view that the Bill will regulate how traditional beer is produced and as such the Bill will affect its production, distribution and consumption.

6. Having applied my mind to the provisions of the Bill, I am of the view that the Bill should have been referred to the National House of Traditional Leaders in terms of section 18(1)*(a)* of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003) ("the Act").

7. Section 18(1)*(a)* of the Act provides that "*any parliamentary Bill pertaining to customary law or customs of traditional communities must, before it is passed by the house of Parliament where it was introduced, be referred by the Secretary to Parliament to the National House of Traditional Leaders for its comments*".

8. According to the memorandum on the object, the Bill was not referred to National House of Traditional Leaders, as envisaged in section 18(1)*(a)* of the Act, because the State Law Adviser recommended that, it was not necessary to refer the Bill to the National House of Traditional Leaders, since the Bill does not contain provisions pertaining to customary law or customs of traditional communities.

9. It is my view that the inclusion of "traditional African beer" in the Bill will have an impact on its production, consumption and dissemination and as such will have impact on customary law or customs of African traditional communities.

10. Section 79(1) of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), requires the President to assent to and sign a Bill referred to him or her by the National Assembly. However, if he or she has reservations about the constitutionality of the Bill, section 79(1) of the Constitution requires the President to refer the Bill back to the National Assembly for re-consideration.

11. I have considered the Bill, and I am of the view that the Bill should have been referred to the National House of Traditional Leaders in terms of section 18(1)*(a)* of the Act.

12. Section 211 and section 212 of the Constitution recognised the role of traditional leadership and its institutions in matter affecting local communities.

13. Section 211 of the Constitution provides that:

"***Recognition***

(1) The institution, status and role of traditional leadership, according to customary law, are recognised, subject to the Constitution.

(2) A traditional authority that observe a system of customary law may function subject to any applicable legislation and customs, which includes amendments to, or repeal of, that legislation or those customs.

(3) The courts must apply customary law when that law is applicable, subject to the Constitution and any legislation that specifically deals with customary law."

14. Section 212 of the Constitution also provides that:

"***Role of traditional leaders***

(1) National legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities.

(2) To deal with matters relating to traditional leadership, the role of traditional leaders, customary law and the customs of communities observing a system of customary law–

(a) national or provincial legislation may provide for the establishment of houses of traditional leaders; and

(b) national legislation may establish a council of traditional leaders."

15. I hereby refer the attached Bill to the National Assembly for reconsideration in terms of section 79(1) of the Constitution.

Yours Sincerely

Mr Matamela Cyril Ramaphosa

President of the Republic of South Africa

Speaker of the National Assembly
Parliament of the Republic of South Africa
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8000

Referred to the **Portfolio Committee on Agriculture, Land Reform and Rural Development** for consideration and report in terms of Joint Rule 203.

(2) A letter dated 2 June 2020 has been received from the President of the Republic, returning the **Protection of State Information Bill [**B6H-2010**]** to the National Assembly for consideration of the President's reservations about its constitutionality.

02 June 2020

Dear Ms Thandi Modise, MP

PROTECTION OF STATE INFORMATION BILL (B6-H-2010)

1. The Protection of State Information Bill (the "*Bill*") has been submitted to me for assent and signing into law in terms of section 79 of the Constitution of the Republic of South Africa,1996 ("the Constitution"). Given my reservations set out below, I cannot assent to the Bill and I am hereby again referring it back to the National Assembly. This is despite the fact that the Bill has already once before been referred to the National Assembly by former President Zuma.

2. I fully appreciate that this is unorthodox, however for reasons set out below, I think it is the only possible means through which to address the concerns I have with the Bill as it currently stands.

3. **Process**

   3.1. The Bill was submitted to the Presidency in November 2013. The Bill was referred back to the National Assembly by former President Zuma in terms of section 79(1) of the Constitution for minor editorial issues e.g. that clauses 42 and 45 lacked meaning and coherence.

   3.2. In *Ex Parte President of the Republic of South Africa In Re: Constitutionality of the Liquor Bill* 2000 (1) BCLR 1 (CC) (the "*Liquor Bill matter*") the Constitutional Court considered the process relating to the President's assent to Bills set out in section 79 of the Constitution. I refer you to paragraphs [10]-[20] of that judgment generally, but set out the pertinent aspects of the judgment below.

   3.3. The Court makes the following findings at paragraph 19 regarding the steps set out in section 79 and the nature of the section (the highlights are my own):

   > Section 79 "*envisages a series of steps, initiated by the President, in which **Parliament is itself an active participant**. The President can refer a Bill to this Court only after Parliament has unavailingly reconsidered it in the light of his reservations. **The attitude of the National Assembly (or, where appropriate, Parliament) to the Bill's constitutionality is therefore also a material factor in this Court's determination**, ... it follows that in deciding on the Bill's*

constitutionality the Court must consider the reservations of the President as well as any submissions relevant to them by any party represented in Parliament."

3.4. With regards to the Bill we find ourselves in a unique situation. The previous referral by former President Zuma involved minor editorial issues, rather than the constitutional reservations I have. I am of the view that there are significant constitutional issues with the Bill which I have set out in this letter. Section 79 does not explicitly provide guidance on what action should be taken in these circumstances.

3.5. As is clear from the Liquor Bill matter, I cannot refer the Bill to the Constitutional Court in terms of section 79 without Parliament having had an opportunity to consider these reservations.

3.6. I am of the view that the correct manner in which to proceed is for me to refer the Bill back to Parliament to consider my reservations.

3.7. Akin to section 79 of the Constitution, the Joint Rules do not explicitly provide for this unique situation. However, the provisions of Part 8 of the Joint Rules allow Parliament flexibility which is, I submit, sufficient to consider my request for a second referral in terms of section 79 of the Constitution albeit the same Bill which was previously referred. The provisions of Part 8 can be followed as if this were a first-time referral.

3.8. In light of the judgment in the Liquor Bill matter, and in particular the Court's findings in paragraph 19 of that judgment which I have highlighted above, this unique situation cannot in my view constitutionally be dealt with any other way.

4. **Constitutional Reservations**

4.1. As is required by section 79, and has been stated by the Constitutional Court in the Liquor Bill matter, the President is required to itemise any reservations in relation to a Bill. I do so below, and note that these have been informed by a number of legal opinions provided to me as well as public submissions received by the Presidency over the lifetime of the Bill. I am indebted to the thoughtful and thorough submissions that have been received. I will ensure that these submissions are made available to Parliament once I receive confirmation regarding the referral requested in this letter. I deal with a particular reservation relating to the tagging of the Bill separately in paragraph 9 below.

5. **Constitutional framework**:

5.1. Section 16 of the Constitution guarantees that everyone has the right to "*freedom of expression, which includes <u>freedom of the press and other media</u>; <u>freedom to receive or impart information or ideas</u>; freedom of artistic creativity; and academic freedom and freedom of scientific research.*" (<u>Emphasis added</u>)

5.1.1. The values which underlie freedom of expression include truth-seeking, democratic political activity and self-fulfilment. The Constitutional Court has held that *"freedom of expression lies at the heart of a democracy"* and is *"valuable for many reasons, including its instrumental function as a guarantor of democracy, its implicit recognition and protection of the moral agency of individuals in our society and its facilitation of the search for truth by individuals and society generally."* (see *SANDF v Minister of Defence* 1999 (6) BCLR 615 (CC) at [7]; see also *S v Mamabolo* 2001 (5) BCLR 449 (CC) at [37]; *Islamic Unity Convention v Independent Broadcasting Authority* 2002 (5) BCLR 433 (CC) at [26]-[30]; *De Reuck v DPP (WLD)* 2003 (12) BCLR 1333 (CC) at [48]; *Laugh It Off Promotions CC v SAB* 2005 (8) BCLR 743 (CC) at [45]; *SABC v NDPP* 2007 (2) BCLR 167 (CC) at [23])

5.1.2. Under the Interim Constitution, there was some uncertainty regarding the protective ambit of the right (see *Case v Minister of Safety and Security; Curtis v Minister of Safety and Security* 1996 (5) BCLR 609 (CC) at [92]). This has been addressed in the current section 16 which sets out that the right includes the freedom to receive information. This is particularly important in light of the provisions of clause 35 of the Bill which criminalises the receiving of certain information.

5.2. Section 32 of the Constitution guarantees that everyone has the right to access *"any information held by the state; and any information that is held by another person and that is required for the exercise or protection of any rights."*

5.2.1. The right of access to information is often dealt with in international instruments and foreign legislation as a corollary to the right to freedom of expression (e.g. Art 10 of the ICCPR). That it is a free-standing right in our Constitution underscores its significance in our constitutional order, and furthermore that the right is enforceable against the entity holding the information, in this instance, the State.

5.2.2. Similarly to the right to freedom of expression, our Courts have recognised that there is a fundamental connection between access to information and our effort to create a constitutional democracy based on the principle of openness and transparency (See, in relation to the Interim Constitution, *Qozeleni v Minister of Law and Order* 1994 (3) SA 625 (E) at 642, and *Khala v Minister of Safety and Security* 1994 (4) SA 218 (W) at 225). The Constitutional Court has also held that underpinning the access to information right is the rationale of good governance and open democracy (*Ex Parte Chairperson of the Constitutional Assembly: In re Certification of the Constitution* 1996 (4) SA 744 (CC) at [83]).) The Supreme Court of Appeal has held that *"open and transparent government and a free flow of information concerning the affairs of the State is the lifeblood of democracy. That is why the Bill of Rights guarantees to everyone the right of access to* 'any information that is held by the state'." (*President of the Republic of SA v M&G Media Ltd* 2011 (2) SA 1 (SCA) at [1].)

5.2.3. As with the right to freedom of expression, the right to access information is a vital component of a free, open and democratic society, and is key to the values of accountability, responsiveness and openness, and ultimately, fundamental to the realisation of the rights in the Bill of Rights. (*Brümmer v Minister for Social Development* 2009 (11) BCLR 1075 (CC) at [62]-[63])

5.3. It is clear that the Bill limits both of these sections. The Bill limits the freedom of the media (and everyone else) to access or receive and impart information. This is a limitation of section 16. The Bill also prohibits people from accessing certain information held by the state. This limits section 32.

5.4. Such limitations are not constitutionally impermissible if such limitation complies with section 36 of the Constitution. In terms of section 36 of the Constitution, the rights in the Bill of Rights may only be limited in terms of 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 (some of which are listed in the section). This is in line with the approach taken in democratic countries broadly where the permissibility of placing reasonable restrictions on freedom of expression, whether as to time, place or manner is recognised.

5.5. In *Islamic Unity Convention v Independent Broadcasting Authority* 2002 (5) BCLR 433 (CC) at [30] the Constitutional Court reiterated that the right to freedom of expression is not absolute, and that determining its parameters in any given case is therefore important, particularly where its exercise might intersect with other interests. In particular, there will inevitably be conflict at the intersection between legitimate state restriction of information in the interests of national security and freedom of expression in a democratic society.

5.6. The Constitutional Court has affirmed that the Constitution itself imposes on the legislative and executive organs of state the powers and duties to preserve the peace of the Republic, secure the well-being of its people, to defend and protect the Republic, to maintain national security, to establish and maintain intelligence services, and to combat crime (*Independent Newspapers (Pty) Ltd v Minister for Intelligence (Freedom of Expression Institute Intervening as* Amicus Curiae) 2008 (5) SA 31 (CC) at [49]).

5.7. The importance of having a single coherent statute setting out our national security restrictions cannot be gainsaid. I recognise that currently the sources of national security restrictions are found in a variety of statutes, regulations, directives and policy instruments. However, for the reasons set out below, the Bill's limitations of sections 16 and 32 of the Constitution may be unreasonable or incapable of being justified.

6. Over-breadth of definitions

6.1. **National security** is defined in the Bill as follows:

*"**national security**" includes the protection of the people of the Republic and the territorial integrity of the Republic against –*

(a) the threat of use of force or the use of force;

(b) the following acts:

- i. *Hostile acts of foreign intervention directed at undermining the constitutional order of the Republic;*
- ii. *terrorism or terrorist related activities;*
- iii. *espionage;*
- iv. *exposure of a state security matter with the intention of undermining the constitutional order of the Republic;*
- v. *exposure of economic, scientific or technological secrets vital to the Republic;*
- vi. *sabotage; and*
- vii. *serious violence directed at overthrowing the constitutional order of the Republic;*

(c) acts directed at undermining the capacity of the Republic to respond to the use of, or the threat of the use of, force and carrying out of the Republic's responsibilities to any foreign country and international organisations in relation to any of the matters referred to in this definition, whether directed from, or committed within, the Republic or not,

but does not include lawful political activity, advocacy, protest or dissent".

6.2. **State security matter** is defined in the Bill as follows:

"***state security matter"*** *includes any matter, which has been classified in terms of this Act and which is dealt with by the Agency or which relates to the functions of the Agency or to the relationship existing between any person and the Agency".*

6.3. These are broad definitions. I draw your attention in particular to the fact that the definitions are not closed list definitions as they are drafted with the word 'includes'. This means that in terms of the Bill, 'national security' and 'state security matter' are not limited to the definition provided in the Bill. This leaves scope for classifying bodies and officials to interpret the definition of 'national security' and 'state security matter' as they see fit.

6.4. In addition, the definitions are not exhaustive and a range of conduct or matters which are not included in the definition section can be considered by someone with the authority to classify information to be a threat to national security, or be a state security matter, as applicable.

6.5. In *Dawood and another v Minister of Home Affairs* 2000 (3) SA 936 (CC), the Constitutional Court criticized a legislative scheme for failing to provide adequate guidance to administrators in making decisions regarding the refusal to issue or extend temporary permits to foreign spouses married to South African citizens. That Court held that to leave the issue to the discretion of the decision-maker was an improper onerous burden on officials when the burden should be borne by the legislature. This was therefore an unjustifiable limitation on the constitutional rights relevant to that matter. (See [49]-[50]) The Bill suffers from this same constitutional hurdle.

6.6. There is, as in *Dawood*, unlimited scope in the Bill left to the discretion of a decision-maker to decide that particular information threatens national security and can therefore be classified in terms of clauses 11 and 12 of the Bill. While the Constitutional Court acknowledged in *Dawood* that "*discretion plays a crucial role in any legal system* [as it] *permits abstract and general rules to be applied to specific and particular circumstances in a fair manner*", the Court has qualified this in *Affordable Medicines Trust v Minister of Health* 2006 3 SA 247 (CC) such that where broad discretionary powers are conferred, there must be some constraints on the exercise of such power so that those who are affected will know what is relevant to the exercise of those powers (at [34]).

6.7. Although clause 8 sets out conditions for classification (as well as reclassification and declassification), these provisions are insufficient to save the Bill from unconstitutionality for over-breadth, and thus offensive to the constitutional principle of legality. In *Case and another v Minister of Safety and Security and others* 1996 (3) SA 617 (CC) the Constitutional Court held, at [49]-[50], that a legislative provision is said to be overbroad when its impact is disproportionate with its objectives.

7. **Defences**

7.1. Chapter 11 (clauses 34 – 48) of the Bill sets out the offences and related penalties for non-compliance with the provisions of the Bill. Clause 41 provides three narrow defences limited to the offence of disclosure or possession of classified state information.

7.2. **Public interest defence**

7.2.1. In clause 41 disclosure and possession of classified state information is criminalised. There are three exceptions: where such disclosure or possession (1) is protected or authorised under various statutes; (2) is authorised in terms of the Bill, or any other Act of Parliament; or (3) reveals criminal activity, including any criminal activity in terms of clause 45 of the Bill which makes it an offence for anyone to intentionally classify state information in order to achieve any purpose ulterior to the Bill. These are the only defences provided in the Bill; none of the other offences provide for any defence.

7.2.2. While this provides some protection for whistle-blowers, these narrow defences, relating only to section 41, will not withstand constitutional scrutiny. For example, a person is criminally liable even if the document was wrongly classified to cover up corruption or hide illegalities or maladministration, and further, there are no provisions dealing with the status of a person in possession of, or who has disclosed information, prior to such information revealing criminal activity, or the bar to determine the scope of 'revealing criminal activity' – is it sufficient for SAPS to determine that an investigation is warranted, that the National Prosecuting Authority decides to prosecute, that a court finds evidence of criminal activity or that all appeal processes in such a criminal trial have been exhausted?

7.2.3. South African law already recognises the importance of public interest in similar circumstances. Section 46 of The Promotion of Access to Information Act 2 of 2000 ("*PAIA*") effectively overrides the provisions of section 41, which governs disclosure of documents concerning defence, security and international relations, and stipulates that if it is in the public interest, such information must be disclosed.

7.2.4. Furthermore, in Yacoob J's judgement in *Independent Newspapers (Pty) Ltd v Minister for Intelligence Services* 2008 (4) SA 31 (CC), (albeit in a minority judgment) the judge wrote that

"the public importance of and interest in these events can neither be gainsaid nor over-emphasised. ... The public is entitled to know all except that which cannot be revealed on account of important national security considerations. I would put the strong public interest to know as well as the extent to which the material is already in the public domain on the one side of the scale and the appropriate weight to be attached to the government objection on the other side of the scale in order to determine whether the balance falls in the interests of justice enquiry..." (At [103]) and equally persuasive, "*the starting point of the enquiry into whether the document should be released is that it was of great public importance and justified considerable public interest."*(At [121])

7.2.5. I have further concerns relating to how clause 41 would work in practice. Given the Constitutional protection that every person is presumed to be innocent until proven guilty, it is unclear how a whistle-blower, for example, would effectively rely on clause 41(c) if the disclosed information does not relate to someone already convicted of a crime. Furthermore, if the information remains classified after it has been disclosed by the whistle-blower, how will the criminal activity be successfully prosecuted if the classification remains in place.

7.2.6. The lack of a public interest defence will create an unjustifiable chilling effect on the freedom of expression. Furthermore, the lack of any defences for offences other than those in clause 41, stands to be successfully challenged in court on the basis that such limitation is arbitrary, and thus irrational.

7.3. Public Domain Defence

7.3.1. In terms of the current Bill, as there is no public domain defence, anyone in possession of classified information which is already in the public domain, and anyone who discloses such information would be guilty of an offence. There is both statute and case law, foreign and local, which points to this deficit of a public domain defence being unconstitutional.

7.3.2. It is a basic tenant of privacy law that once information loses its secrecy (by, for example, being in the public domain for whatever reason), information can no longer be protected. PAIA legislates this particular principle in section 37(2)(a) which provides an exception to the provision that a public body's information officer is entitled to refuse a request for access to information if the disclosure would constitute an action for breach of a duty of confidence. That exception is where the information is already publicly available.

7.3.3. That restricting information once it is in the public domain amounts to a breach of the right to freedom of expression has been recognised in the UK's House of Lords (*Attorney-General v Guardian Newspapers (No 2) [1990]* 1 AC 109 at 642 and 659), the European Court of Human Rights (*Vereniging Weekblad Bluf! v Netherlands* (1995) 20 EHRR 189 at 203), and our own Constitutional Court (*Independent Newspapers (Pty) Ltd v Minister for Intelligence Services* 2008 (4) SA 31 (CC) which held:

"*In deciding whether documents ought to be disclosed or not, a court will have regard to all germane factors which include the nature of the proceedings; the extent and character of the materials sought to be kept confidential; the connection of the information to national security; the grounds advanced for claiming disclosure or for refusing it; <u>whether the information is already in the public domain and if so, in what circumstances it reached the public domain; for how long and to what extent it has been in the public domain</u>; and, finally, the impact of the disclosure or non-disclosure on the ultimate fairness of the proceedings before a court. These factors are neither comprehensive nor dispositive of the enquiry.*" (At [55]) (<u>Emphasis added</u>)

7.3.4. In light of this jurisprudence, and the provisions of PAIA, the lack of a public domain defence would be found constitutionally wanting by a court as it unjustifiably limits the rights of freedom of expression and access to information. On a practical level the Bill creates the anomaly that while internationally the media would be able to report on any classified South African information which is in the public domain, the South African media would be criminally liable should it do so.

8. Classification & declassification

8.1. Classification

8.1.1. In terms of clause 12(1) of the Bill, *"any head of an organ of state may classify or reclassify state information"*. In addition, in terms of clause 12(2), *"a head of an organ of state may delegate, in writing, the authority to classify state information to a staff member at a sufficiently senior level."* Clause 12(3) provides that *"only designated staff members may be given the authority to classify state information as secret or top secret."*

8.1.2. 'Sufficiently senior' is an undefined term, and it is unclear who can designate staff members, and how such designation is determined. This leaves these provisions of the Bill open to constitutional challenge for being impermissibly vague and in violation of the constitutional principle of legality, as enshrined in section 1 of the Constitution.

8.1.3. Clause 12(6) of the Bill grants certain members of the Security Services the authority to classify information. Unlike the delegation provision in clause 12(2) which attempts to designate a rank of 'sufficiently senior' (albeit that such attempt is arguably unconstitutional for reasons of vagueness), there is no such attempt to confine the authority in clause 12(6). Furthermore, the exclusion of SAPS and SANDF members in the clause, *"except those, who by the nature of his or her work deals with state information that may fall within the ambit of this Act"*, further extends the authority to an, as yet, unidentified group of SAPS and SANDF members. In addition, unlike the authority granted in clause 12(1), the authority granted in clause 12(6) includes the word "*must*". This clause is thus both vague and may lead to over classification given the duty imposed instead of clause 12(1)'s discretionary authority to classify.

8.1.4. Although clause 12(7) stipulates that any classification in terms of clause 12(6) must be confirmed by the relevant head of an organ of state, this does not remedy the potential over-classification, and creates a further problem as there are no timelines set for such review which could lead to a situation where information which is classified in terms of clause 12(6), and ultimately not confirmed in terms of clause 12(7), has been classified for an indefinite period of time, during which time the consequences of classification (e.g. offence to disclose or possess) will follow.

8.1.5. The issues raised above render clauses 12(6), 12(7), and 12(8) unconstitutional as they unjustifiably limit the rights of access to freedom of expression and access to information.

8.2. **Declassification of classified information**

8.2.1. Chapter 6 of the Bill (clauses 16 and 17) set out the process for both regular reviews of classified information and the review process to be followed following a request for access to classified information. Chapter 8 (clauses 29 and 30) provide for an appeal procedure and application to court for anyone aggrieved by a decision to refuse access.

8.2.2. Nowhere is provision made for information which can be severed from information which should legitimately remain classified to be made available following a request. The result of this is that an entire classified document can be withheld, despite information within that document having no bearing on national security. The lack of such severability provision is an unjustifiable limitation on the rights of freedom of expression and access to information.

8.2.3. Clause 17(5) of the Bill sets out that the head of an organ of state must, when conducting a review for declassification of requested information, apply the conditions for the classification and declassification set out in clauses 8 and 11. This is however inadequate to qualify as sufficient guiding factors (in light of the *Dawood* jurisprudence discussed above) when a head of organ of state, in terms of clause 17(2), must determine that the public interest in disclosing information clearly outweighs the harm that will arise from the disclosure.

9. **Tagging of the Bill**

9.1. The Bill was enacted in accordance with the procedure stipulated in section 75 of the Constitution. I have reservations regarding the correctness of this process and question whether the Bill has been correctly tagged as an ordinary Bill not affecting provinces.

9.2. Clause 3(3) of the Bill provides that "*the provisions of the Act with regard to the protection of valuable information against unlawful alteration, destruction or loss apply to all organs of state.*" Organs of state are defined as "*any organ of state as defined in section 239 of the Constitution*". Section 239 of the Constitution defines 'organ of state' as follows: (a) any department of state or administration in the national, provincial or local sphere of government; or (b) any other functionary or institution (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer.

9.3. The Bill therefore, with regard to the protection of valuable information against unlawful alteration, destruction or loss, applies to the provinces and to any provincial organ of state. Clause 5(1)(c) obliges the head of an organ of state to establish "*conditions for the protection against alteration, destruction or loss of state information created, acquired or received by that organ of state.*"

9.4. In addition, section 3(1) permits the Minister to make the classification, reclassification and declassification provisions of the Bill applicable to "*any organ of state or part thereof that applies in the prescribed manner, excluding all municipalities and all municipal entities*".

9.5. Furthermore, the Bill imposes responsibilities on the provinces with regard to the manner in which valuable information (as defined) and state information (as defined) is dealt with at provincial level (see clause 6 read with clauses 7(1), as well as clause 51). This will have an impact on the management and control of provincial archives, at least in respect of the custody and safekeeping of valuable and state information at the provincial level, particularly once the Minister has made regulations.

9.6. Provincial archives are, in terms of schedule 5 of the Constitution, an area of exclusive provincial legislative competence. Thus, the Bill should have been enacted in accordance with section 76 of the Constitution. Although the subject matter of this Bill lies predominantly in the national legislative competence and will not necessarily affect provinces, there are provisions which have a substantial impact on the interests of provinces. The Constitutional Court held in *Tongoeane v Minister for Agriculture and Land Affairs* 2010 (8) BCLR 741 (CC) at [69] that the test for tagging of bills has to be informed by the need to ensure that the provinces exercised their appropriate role, fully and effectively, in the process of considering national legislation that substantially affected them, and went on to endorse the 'substantial measure' test which permits a consideration of the provisions of a bill and the impact of those provisions on matters that substantially affect the provinces (see [71]). The Court affirmed that any bill, the provisions of which substantially affect the interests of the provinces, must be enacted in accordance with the procedure stipulated in section 76 of the Constitution which includes bills where the main substance falls within the exclusive national competence, but the provisions of which nevertheless substantially affect the provinces (see [72]).

9.7. Given my reservations regarding the tagging of the Bill, I draw your attention in particular to section 79(3)(a) of the Constitution which provides that the NCOP must participate in the reconsideration of a bill where the President's reservations relate to a procedural matter that involves the Council.

10. I hereby refer the attached Bill to the National Assembly for reconsideration insofar as there are concerns regarding the Bill's constitutionality as raised above.

Yours Sincerely

Mr Matamela Cyril Ramaphosa

President of the Republic of South Africa

Speaker of the National Assembly
Parliament of the Republic of South Africa
P. O. Box 15
CAPE TOWN
8000

CC: Hon. A N Masondo: Chairperson of the National Council of Provinces

Referred to the **Portfolio Committee on Justice and Correctional Services** for consideration and report in terms of Joint Rule 203.

National Council of Provinces

The Chairperson

1. Bills passed by Assembly and transmitted to Council for concurrence

(1) Bill passed and transmitted for concurrence on 12 June 2020:

(a) **Appropriation Bill** [B 4 - 2020] (National Assembly – sec 77).

The Bill has been referred to the **Select Committee on Appropriations** of the National Council of Provinces.

TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Environment, Forestry and Fisheries

(a) Government Notice No 172, published in Government Gazette No 43022, dated 14 February 2020: Extension of time to comment on the draft revised and updated National Waste Management Strategy, in terms of the National Environmental Management: Waste Act, 2008 (Act No 59 of 2008).

COMMITTEE REPORTS

National Council of Provinces

1. Report of the Select Committee on Security and Justice on the Civil Union Amendment Bill [B11B-2018] (National Assembly – sec 75), dated 11 June 2020.

The Select Committee on Security and Justice, having considered the **Civil Union Amendment Bill** [B11B – 2018] (National Assembly – sec 75), referred to it and after revival in the Council on 17 October 2019 and classified by the JTM as a section 75 Bill, reports that it has agreed to the Bill and reports as follows:

1. Background

The Civil Union Act, 2006 (Act No. 17 of 2006) (''the Act''), was enacted as a result of the Constitutional Court decision in *Minister of Home Affairs v Fourie 2006 1 SA 542 (CC)*. The Constitutional Court ruled that it was unconstitutional for the State to provide the benefits of marriage to opposite-sex couples whilst denying them to same-sex couples. This infringed the right to equality before the law and the right not to be discriminated against by the State on grounds of sexual orientation.

The purpose of the Bill is to repeal section 6 of the Act, which allows a marriage officer to inform the Minister that he or she objects on the ground of conscience, religion, and belief to solemnising a civil union between persons of the same sex.

2. Public participation process on the Civil Union Amendment Bill

The Committee took a resolution, to involve the public and called for written submissions on the Bill. The Committee placed the advertisements on electronic platforms calling for written submissions on the Bill from 05 November to 06 December 2019.

3. Summary of Submissions

The Committee received a total of 325 submissions from organisations and individuals either in favour or against the amendment Bill. Those in favour argue, in the main, that marriage officers as employees of the State should marry same-sex couples. Those not in favour argue, in the main, that marriage officers should also be able to exercise their religious beliefs.

The following organisations submitted written submissions which are not in favour of the Bill:

1. Gayo Communities International;
2. Limpopo Council of Church Elders;
3. Christian View Network;
4. Hart van God ministries;
5. Full Gospel Church of Southern Africa/Lede in Christus Kerk;
6. Freedom of Religion South Africa;
7. Cause for Justice; and
8. Family action SA.

In addition to the aforementioned organisations, the Committee received submissions from 156 individuals who are not in favour of the Bill.

The following organisations submitted written submissions which are in favour of the Bill

1. Cape Town Progressive Jewish Congregation;
2. Jewish Queer CPT;
3. Ecclesia de Lange;
4. IRANTI;
5. GALA Queer Archives;
6. Free Gender and Legal Resource Centre;
7. Gender Dynamix;

8. Women's Legal Centre and the Triangle Project;
9. ACCESS Chapter 2;
10. OUT LGBTI; and
11. Congress of South African Trade Unions ("COSATU").

In addition to the aforementioned organisations, the Committee received submissions from 153 individuals who are in favour of the Bill.

4. **Committee consideration of the written submissions on the Civil Union Amendment Bill**

The Select Committee on Security and Justice received a briefing on the Civil Union Amendment Bill from the Parliamentary Legal Advisor on 18 October 2019. Following this briefing, the Committee took a resolution, to involve the public and called for written submissions on the Bill.

At a further Committee meeting on 18 May 2020, the Committee received a briefing by the Content Advisor on the salient points contained in the written submissions. At this meeting, the Committee agreed to request a legal opinion on the aspects pertaining to public participation, particularly whether or not it is recommended that the Committee hold public hearings. This was done despite the fact that most members were satisfied with and understood the contents of the written submissions. The legal opinion was required to ensure that the Committee processes are above reproach and would pass any potential constitutional legal challenge.

On 4 June 2020, the Committee received a briefing by the parliamentary legal advisor on the legal opinion on public participation. In light of the legal opinion, the Committee agreed that sufficient time had been afforded to the public to make written submissions, and within its discretion, its deliberations and its understanding of the contents of the written submissions were sufficient in ensuring that adequate public participation had taken place.

Further, the Committee agreed that the responses to the written submissions provided by the parliamentary legal advisor and the Department of Home Affairs had adequately addressed any outstanding questions that members may have had in relation to the content of the bill and the implementation thereof.

In particular, members were satisfied with the Department's explanation of Clause two (2) of the bill which deals with transitional provisions. The Department explained that they have undertaken a process of awareness raising with their officials which is still ongoing. The Department informed the Committee, that the 24-month period as set out in Clause two (2) of the Bill, is necessary to ensure that there is adequate time provided for the Department to continue with its training and to ensure that all officials are ready to implement the legislation effectively. The Department indicated that the awareness raising has been successful and officials are more sensitized to the solemnization of same sex unions.

Members had also considered Section 195 (1) of the Constitution which provides that public administration must be governed by the democratic values and principles enshrined in the Constitution, including in subsection (d) that services must be provided impartially, fairly, equitably and without bias.

Members noted further that Section 197(3) of the Constitution provides that no employee of the public service may be favoured or prejudiced only because that person supports a particular political party or cause. Members agreed that the repeal of Section 6 of the Civil Union Act, 2006 was important in advancing equality and upholding the Constitutional rights afforded to persons entering into same sex unions.

The committee thanked the organisations and individuals for their written submissions on the Bill.

5. Recommendation

The Select Committee on Security and Justice, having considered the Civil Union Amendment Bill [B11B – 2018] (National Assembly – sec 75), referred to it and classified as a section 75 Bill, reports that it has agreed to the Bill without amendments and recommends the National Council of Provinces approves the Bill.

Report to be considered.

2. Report of the Select Committee on Security and Justice on Government Notice No R. 1692 published in Government Gazette No 42916 dated 20 December 2019: Regulations for Judicial Officers in the Lower Courts, 1993: Amendment, made under section 16 of the Magistrates Act, 1993 (Act No 90 of 1993), dated 11 June 2020.

The Select Committee on Security and Justice, considered the Regulations for Judicial Officers in the Lower Courts, 1993: Amendment, made under section 16 of the Magistrates Act, 1993 (Act No 90 of 1993) and reports as follows:

1. The Government Notice No R. 1692 published in Government Gazette No 42916 dated 20 December 2019: Regulations for Judicial Officers in the Lower Courts, 1993: Amendment, made under section 16 of the Magistrates Act, 1993 (Act No 90 of 1993) (the Regulations) was referred to the Select Committee for consideration and report on 25 February 2020.

2. The Select Committee received a briefing on the Regulations by the Department of Justice and Constitutional Development on 11 June 2020.

3. The Regulations came into effect on 1 January 2020.

4. The Regulations prescribe the dispensation of leave for all associated leave types with the intention to further de-link the magistrates from the Public Service prescripts to allow greater independence to the Lower Court Judiciary.

Legal basis for consideration of the Regulations

Section 16(2)(A) of the Magistrates Act, 1993 provides that a "[R]egulation made under this section shall be in force unless and until Parliament…by resolution disapproves the regulation, in which event the regulation shall lapse with effect from a date to be specified in the resolution".

Recommendation

The Select Committee on Security and Justice, having considered the Government Notice No R. 1692 published in Government Gazette No 42916 dated 20 December 2019: Regulations for Judicial Officers in the Lower Courts, 1993: Amendment, made under section 16 of the Magistrates Act, 1993 (Act No 90 of 1993), resolved not to disapprove the regulation.

Report to be considered.

3. REPORT OF THE SELECT COMMITTEE ON TRANSPORT PUBLIC SERVICE AND ADMINISTRATION, PUBLIC WORKS AND INFRASTRUCTURE ON BUDGET VOTE 7: NATIONAL SCHOOL OF GOVERNMENT AND STRATEGIC PLANS AND ANNUAL PERFORMANCE PLANS 2020-21 OF THE DEPARTMENT OF TRANSPORT AND ENTITIES REPORTING TO THE MINISTER OF TRANSPORT, DATED 10 JUNE 2020

The Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure, having considered Budget Vote 7: National School of Government and the Strategic Plans and Annual Performance Plans of the National School of Government, reports that it could not reach a decision on the Budget Vote.

1. Background

The Select Committee on Transport Public Service and Administration, Public Works and Infrastructure (hereinafter referred to as the Select Committee), having considered the directive of the National Council of Provinces to consider and report on the Strategic Plan, Annual Performance Plan and Budget allocations of the National School of Government tabled by the Minister, reports as follows:

2. Introduction

Parliament plays an important role in overseeing planning and performance of government departments and public entities as well as Chapter 9 and 10 institutions. In considering the strategic and annual performance plan, the Committee ensured that the National School Government's plan and budget allocation serve the needs and aspirations of the public servants. Budget allocation serves as a key instrument for government to promote socio-economic development. Budget allocation plays a critical role as an economic instrument of the government to reflect on the country's socio-economic policy priorities by translating priorities and political commitments into expenditures. Budget serves as a vital tool to operationalise government activities towards the achievement of its intended priorities. Furthermore, the budget highlights the constraints and trade-offs in policy choices.

On 6 May 2020, the Committee considered the presentation on the Strategic and Annual Performance Plans and budget allocation of the National School of Government (NSG). This report summarises the presentation received from the NSG, focusing on the 2019/24 Strategic Plan and 2020/21 Annual Performance Plan and Budget as well as allocations over the MTEF.

3. Overview of the National School of Government (NSG)

The NSG draws its mandate from the Constitution, and with particular reference to section 195(1)(h), which stipulates that: "good human resource management and career-development practices, to maximise human potential, must be cultivated". The applicability of this, and the other values and principles to the three spheres of government, organs of state and public enterprises indicates the requisite depth and the reach of the NSG in order to fulfil this constitutional mandate.

The NSG has to ensure that all of the basic values and principles are inculcated into the value system and performance of all public servants and representatives through education, training and development (ETD) initiatives. It does so through its curriculum design, development and delivery approach with the practical application of participatory, people-centred methodologies and the application of indigenous facilitation and learning techniques during the ETD initiatives, in building a caring ethos and citizen-centred service delivery focus amongst public servants. This approach consciously focuses on the application of the principles and values of the Constitution and the realisation of the public administrative justice to all whom we serve.

4. Legislative Mandate

Section 197 of the Constitution provides for a public service within public administration, which must function, and be structured, in terms of *national legislation*, and which must loyally execute the lawful policies of the government of the day. The NSG, as a national public service department, thus draws its mandate from national legislation – the Public Service Act, 1994 (Proclamation 103 of 1994), as amended. This is the core mandate which establishes the NSG for it to fulfil a function of providing training or causing the provision of training to occur within the public service. Accordingly, section 4 of the Act provides the following mandate:

(1) There shall be a training institution listed as a national department (in Schedule 1 of the Act).

(2) The management and administration of such institution shall be under the control of the Minister (Public Service and Administration).

(3) Such institution, shall provide such training or cause such training to be provided or conduct such examinations or tests or cause such examinations or tests to be conducted as the Head of the institute may with the approval of the Minister decide or as may be prescribed as a qualification for the appointment or transfer of persons in or to the public service. The School may issue diplomas or certificates or cause diplomas or certificates to be issued to persons who have passed such examinations.

Whilst this piece of legislation empowers the NSG to fulfil its mandate, the limitation of the Public Service Act is that it is applicable to the national and provincial spheres of government. Another piece of enabling legislation - Public Administration Management Act, 2014 (Act No. 11 of 2014) - gives effect, *inter alia*, to the progressive realisation of the values and principles governing public administration across the three spheres of government.

5. Strategic Goals of the NSG

The NSG responds to outcome 3 (professional, meritocratic and ethical public administration), and its contribution will be measured by the following outputs:

- A compulsory in-service training framework that is approved by 2020 and 8 compulsory programmes rolled out by 2022.
- The recognition of professionals in the public sector by a professional body by 2023 (working in partnership with the Department of Public Service and Administration).

6. Budget Analysis

The School's overall budget allocation for 2020/21 is R206.6 million compared to R187.9 million in 2019/20. This represents an increase of 10.0 per cent in nominal terms. However, in real terms the total budget for the Department increased by only 5.32 per cent between the 2019/20 and 2020/21 financial years. The budget of the School is divided into two programmes. Both programmes are cost drivers, namely; Programme 1: Administration (R112.9m); Programme 2: Public Sector Organisational and Staff Development (R93.7 million).

The School aims to continue to revise its funding model to ensure it generates more revenue through its training projects. The revised funding model will propose that a portion of national departments' training budgets be redirected to the school to fund the mandatory training it provides. The School planned to conclude its consultation with key stakeholders on the revised funding model in 2019/20 financial year. The School plans to implement revisions to the trading account's tariff structure to ensure that the School generates more revenue.

Table 1: National School of Government budget

Programme R'000	Revised Estimates 2019/20	Medium Term Expenditure Estimates		
		2020/21	2021/22	2022/23
1 Administration	108.1	112.9	119.5	124.5
2. Public Sector Organisational and Staff Development	79.8	93.7	107.8	111.8
Total	**187.9**	**206.6**	**227.3**	**236.3**

Estimates of National Expenditure (2020)

7. Programme Performance

The NSG has two programmes whose budget and activities are as follows:

7.1 Programme 1: Administration

The purpose of this Programme is to provide strategic leadership, management and support services to the School. The budget for Programme 1 increased from R108.1 million in 2019/20 to R112.9 million in 2020/21. This represents 0.04 per cent increase in real terms in the budget allocation between 2019/20 and 2020/21. The programme is one of the two major cost drivers under this Vote, consuming 54.64 per cent of the overall allocation. It is also one programme that experiences minimal real percentage increase. The main cost drivers are Corporate Services at R95.2 million and Management at R17.0 million. The School reduced the average number of days for debt collection to 60 days. All disciplinary cases were resolved within 60 days from the date of receiving the case. The School facilitated three agreements supporting international exchanges and capacity building initiatives.

The School projected to collect cumulative revenue of R132 million generated through Training Trading Account and other funding sources. The School will develop 12 communication interventions aimed at promoting its services across the public sector including the State Owned Enterprises. Moreover, the School targets 50% of business development interventions resulting in uptake of the NSG services in the public sector including State Owned Enterprises. The School will develop a repository for information and knowledge management in this financial year. It will further undertake two research reports informing Education Training Development (ETD) discourse.

7.2 Programme 2: Public Sector Organisational and Staff Development

The Public Sector Organisational and Staff Development (Programme 2) is responsible for facilitating transfer payments to the Training Trading Account, which provides education, development and training to public sector employees.

The budget allocation for Programme 2 increased from R79.8 million in 2019/20 to R93.7 million in 2020/21. In real terms the budget allocation of Programme 2 increased by 12.47 per cent between 2019/20 and 2020/21. This programme consumes 45.36 per cent of the overall budget. The Programme's budget (R93.7 million) is allocated to the National School of Government Training Trading Account sub-programme, which provides education, development and training to public sector employees. The School introduced the use of the e-Learning modality that enables it to offer 22 e-Learning courses and to establish communities of practice, as well as open online courses. The School undertook ten training needs analyses with public sector institutions. The School completed six research projects to inform training needs and opportunities.

The National Development Plan emphasises the importance of professionalising the public service. The NDP highlights that building a skilled and professional public service requires a vision on how public servants experience and expertise develops during their careers. Therefore, the NSG plays a fundamental role in ensuring that public service is professionalised by providing compulsory induction to all public servants. The School intends to complete ten skills assessment reports to inform ETD needs and analyse report of Workplace and Sector Skills Plans to inform ETD interventions. Among the targets to be achieved in this financial year is to develop or review eight courses/programmes/ interventions responsive to identify skills gaps and government priorities.

The School will report on the progress of six evaluation studies and further scope two areas of professionalising functional areas of public servants. This financial year, the School will scope the full post graduate qualification to be offered by the NSG. The School will further enter into 50% of the partnership facilitating the uptake of the NSG ETD interventions. Moreover, it will establish thought leadership platforms and two thought leadership platforms hosted. The School intends to implement Performance Management Systems for Training and Development Practitioners.

The School will train 7 900 on compulsory category 2 programmes. Over 15 000 public servants to attend public service induction programme. A total of 20 700 public servants to attend demand-led ETD interventions in three spheres of government and SOEs. The School will develop an online course/programme on how to deal with all forms of discrimination. Furthermore, it will develop and pilot the online curriculum and case studies in partnership with the Department of Basic Education (DBE) and 34 active online learning ETD intervention available.

8. Observations and Findings

The Select Committee identified the following matters in relation to the Budget Vote 7:

8.1 The Committee noted and considered the Strategic Plan (2019-2024) and Annual Performance Plan 2020/21 financial year of the National School of Government. The NSG's strategic plan fully reflects the mandate from the Constitution, and with particular reference to section 195(1)(h), which stipulates that "good human resource management and career-development practices, to maximise human potential, must be cultivated". The Committee was satisfied with the tabled strategic plan and annual performance plan of the School.

8.2 The Committee noted the impact of the pandemic caused on the attainment of annual targets and funding of the National School of Government. The NSG revenue on the Training Trading Account has been severely affected and might impact programme 2 of the School, which fully funds its activities including Compensation of Employees. Therefore, the NSG would have no options but to approach the National Treasury to assist with funding to address possible budget shortfall if the pandemic does not end soon.

8.3 The Committee noted that an estimated R10.5 million monthly on training fees has been lost since April 2020 due to the COVID -19 pandemic. This was caused by the fact that the NSG was no longer able to offer face to face learning due to the lockdown and social distancing as a result of COVID-19.

8.4 The Committee welcomed the initiative of introducing compulsory training programmes in the public service. Among the programmes is the compulsory online Nyukela Pre-Entry into the Senior Management Service (SMS) ranks launched by the Minister together with the School.

8.5 The Committee further noted that the NSG will be partnering with Legislatures to offer training courses to legislature staff particularly researchers, content advisors and committee staff in general. The NSG will be launching partnership with five universities, which are Tshwane University of Technology, the Free State, the Western Cape and the North West with the aim of offering quality-assured courses by these universities. The School's training programmes have to be on par with university training standards, if the School has to remain competent, relevant and be considered as a School of choice by the public servants.

8.6 The Committee welcomed the announcement by the School that it will in future provide National Diplomas for officials enrolling for accredited courses. However, the NSG emphasised that its ultimate goal is to impart knowledge to students rather than awarding more certificates without prerequisite knowledge gained.

8.7 The Committee noted that the School will be partnering with professional bodies such as engineering fraternity to train and accredit government engineers to practice and be able to undertake certified government projects rather than outsourcing most of the work of government to private professional bodies.

8.8 The NSG reviewed its organisational structure in order to respond effectively to the public administration's demand of education, training and development since its mandate includes the local government level. Review of the organogram has resulted into a decision to recruit more women to senior management and youth in the School.

8.9 The Committee noted that the world is moving towards the implementation of the Fourth Industrial Revolution (4IR). The NSG finds itself being pushed into implementing e-Learning training as a result of 4IR and outbreak of the COVID-19, therefore the School has to change its business operations, modernise business process and be able to adapt to this technological development.

8.10 The Committee urged the School to play its role of training and development during the piloting of the District Development Model so that relevant training needs are identified and tailored for a curriculum that fits well in addressing administrative service delivery bottlenecks in all spheres of government.

9. Recommendations

The Committee recommends that the National School of Government undertake the following:

9.1 The School should devise a long-term plan to recover self-generated income loss caused by suspension of activities due to the pandemic, within twelve months after the lockdown.

9.2 The School should develop a fully-fledged Funding Model to maintain the self-generated income through the Training Trading Account.

9.3 The School should offer only accredited courses so that full recognition is afforded to employees being trained, so that they have opportunities for development and promotion.

9.4 The School should design a generic curriculum on Crisis Management to deal with unexpected pandemics to empower public service employees during national crises.

9.5 The School should consider, where possible, to offer most of its training courses through e-Learning platforms, as part of modernising its business and saving cost on the logistics such as venues.

9.6 The School, in consultation with the Minister, should encourage employees already appointed to Senior Management Service to also enrol through compulsory online Nyukela Pre-Entry SMS programme for the public Service as part of reskilling and retraining. The Nyukela online Pre-Entry programme should be designed in way that it complements Competency Assessment managed by the Department of Public Service and Administration towards promotions.

9.7 The School should ensure that experienced and highly educated senior public servants with knowledge on subject matters are considered as facilitators and volunteers for training public servants. Quality training should be the main priority of the School.

Report to be considered.

4. REPORT OF THE SELECT COMMITTEE ON TRANSPORT PUBLIC SERVICE AND ADMINISTRATION, PUBLIC WORKS AND INFRASTRUCTURE ON BUDGET VOTE 40: TRANSPORT AND STRATEGIC PLANS AND ANNUAL PERFORMANCE PLANS 2020-21 OF THE DEPARTMENT OF TRANSPORT AND ENTITIES REPORTING TO THE MINISTER OF TRANSPORT, DATED 10 JUNE 2020

The Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure, having considered Budget Vote 40: Transport and the Strategic Plans and Annual Performance Plans of the Department of Transport and the entities reporting to the Minister of Transport, reports that it could not reach a decision on the Budget Vote.

1. INTRODUCTION

The Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure considered the 2020/21 budget of the Department of Transport (the Department) on 6 May 2020 in a joint meeting with the Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure. This report contains a summary of the Department's budget allocation and the observations and recommendations of the Committee on the budget. In preparation for this report, the Committee was briefed on the 2020/21 Strategic Plan, Annual Performance Plan (APP) and Budget Allocations of the Department of Transport.

The Committee further hereto engaged with three of the Department's entities on their Strategic/Corporate Plans and APPs for 2020/21 – 6 May 2020 (joint meeting, by the Committee and the Portfolio Committee on Transport, with Department and the Driving Licence Card Account (DLCA)), 3 June 2020 (Committee meeting with the Department and the Passenger Rail Agency of South Africa (PRASA)).

The report details an overview of the performance of the Department during 2019/20, policy priorities for 2020/21 and and how they are aligned with national, regional, continental and global developmental agendas. It also analyses the 2020/21 budgets of the Department and its entities. The report also covers the tabled 2020/21 Strategic/Corporate Plans and APPs of the entities. It concludes by capturing the observations and recommendations made by the Select Committee on Transport in this regard.

The Committee engaged with the entities of the Department on their APPs, Corporate Plans and Budgets during the meetings. The Committee met with the following entities Passenger Rail Agency of South Africa (PRASA) and Driving Licence Card Account (DLCA)

The Department's (and the relevant entities) revised Strategic Plan(s) and APP(s) will be submitted with the adjustments budget that will be tabled later this year by the Minister of Finance.

The report on the budget of the Department is based on information accessed through:

- The 2020 State of the Nation Address (SONA);
- The Department of Transport's APP for 2019/20 and 2020/21 and its Budget Allocation outlined in the Budget Review for 2020/21; and
- The National Development Plan (NDP).

2. MANDATE OF THE DEPARTMENT OF TRANSPORT

The Constitution of the Republic of South Africa, 1996, identifies the legislative responsibilities of various spheres of Government pertaining to all modes of transport and its associated infrastructure.[1] The Department of Transport ("the Department") is responsible for the formulation of legislation and policies for rail, pipelines, roads, airports, harbours, and the intermodal operations of public transport and freight. As such, the Department is entrusted with:[2]

- Conducting sector research;
- Formulating legislation and policy to set the strategic direction of subsectors;

[1] Constitution of the Republic of South Africa, 1996.

[2] National Treasury (2019a).

- Assigning responsibilities to public entities;
- Regulating through setting norms and standards; and
- Monitoring and implementation.

In an endeavour to discharge its mandate effectively and efficiently, the Department is structured as follows:

- Programme 1: Administration;
- Programme 2: Integrated Transport Planning;
- Programme 3: Rail Transport;
- Programme 4: Road Transport;
- Programme 5: Civil Aviation Transport;
- Programme 6: Maritime Transport; and
- Programme 7: Public Transport.

The structure of the Department places significant emphasis on modes of transport. Complementing this modal emphasis are two programmes that seek to provide strategic support to key programmes of the Department. It is the belief of the Department that its internal programmes not only set its agenda, but they bode well "for a collective, integrated and harmonised approach to addressing sector challenges".[3]

3. OVERVIEW OF THE 2019/20 FINANCIAL YEAR[4]

3.1 First Quarter Expenditure of 2019/20

Table 1: 2019/20 First Quarter Expenditure

[3] Department of Transport (2018).

[4] It should be underscored that this section only covers the first Three Quarters of 2019/20, as the Fourth Quarter was not yet available at the time of analysis.

Programme R' Million	Main Appropriation	Available Budget	Q1 Actual Expenditure	Expenditure as % of Available Budget	Q1 Projected Expenditure	Variance from Projected Expenditure	% Variance from Projected Expenditure
Administration	463.0	463.0	97.8	21.1%	108.8	11.1	10.2%
Integrated Transport Planning	169.2	169.2	14.0	8.3%	20.8	6.9	32.9%
Rail Transport	16 573.8	16 573.8	3 482.8	21.0%	3 564.1	81.3	2.3%
Road Transport	33 018.1	33 018.1	8 468.4	25.6%	8 422.2	-46.3	-0.5%
Civil Aviation Transport	245.1	245.1	29.3	11.9%	59.8	30.5	51.1%
Maritime Transport	136.8	136.8	28.0	20.5%	31.1	3.1	9.9%
Public Transport	13 588.1	13 588.1	1 070.6	7.9%	1 218.3	147.7	12.1%
Total	**64 194.2**	**64 194.2**	**13 190.8**	**20.5%**	**13 425.1**	**234.2**	**1.7%**

(Source: (National Treasury, 2019b)

By the end of the First Quarter of 2019/20, the Department had spent R13.2 billion (or 20.5%) of the total available budget of R64.2 billion for 2019/20. The Department had projected spending of R13.4 billion by the end of the First Quarter of 2019/20, indicating a delay in spending of 1.7% (or R234.3 million). The delay in spending was mainly in the Rail Transport and Public Transport programmes.

As at the end of the First Quarter of 2019/20, the Department had spent R114.7 million of the total available budget of R534.7 million on the *Compensation of Employees*. The Department had projected spending R131.4 million by the end of the First Quarter of 2019, translating into a delay in spending of 12.7% (or R16.7 million).[5] The Department had filled 734 posts against a funded establishment of 819 posts. The vacancy rate stood at 10.4% (or 85 vacant posts) by the end of the First Quarter.[6]

3.2 Second Quarter Expenditure of 2019/20

Table 2: 2019/20 Second Quarter Expenditure

[5] Department of Transport (2019b).

[6] *Ibid*.

Programme R' Million	Main Appropriation	Available Budget	Q2 Actual Expenditure	Expenditure as % of Available Budget	Q2 Projected Expenditure	Variance from Projected Expenditure	% Variance from Projected Expenditure
Administration	463.0	443.0	197.8	44.6%	227.0	29.3	12.9%
Integrated Transport Planning	169.2	166.2	32.1	19.3%	120.0	87.9	73.2%
Rail Transport	16 573.8	16 573.8	8 498.6	51.3%	8 020	-478.0	-6.0%
Road Transport	33 018.1	33 073.9	17 471.8	52.8%	17 918.6	446.8	2.5%
Civil Aviation Transport	245.1	243.3	57.9	23.8%	115.5	57.6	49.8%
Maritime Transport	136.8	136.8	55.4	40.5%	65.7	10.3	15.7%
Public Transport	13 588.1	13 568.1	3 759.3	27.7%	4 446.7	687.4	15.5%
Total	**64 194.2**	**64 205.1**	**30 072.9**	**46.8%**	**30 914.1**	**841.2**	**2.7%**

(Source: (National Treasury, 2019c)

By the end of the Second Quarter of 2019/20, the Department had spent R30.1 billion (or 46.8%) of the total available budget, indicating slower than planned spending of 2.7% (or R841.2 million).[7] The delay in spending was mainly in:[8]

- Road Transport programme for transfers and subsidies;
- Public Transport programme for transfers and subsidies, as well as goods and services; and
- Integrated Transport Planning programme for goods and services.[9]

As at 30 September 2019, the Department had spent R237.2 million of the total available budget of R534.7 million on the *Compensation of Employees*. The Department projected spending of R262.4 million by this point in the year, indicating a delay in spending of 9.6% (or R25.3 million). The delay in spending was largely owing to the slow filling of vacant posts.[10] The Department had

[7] National Treasury (2019c).

[8] *Ibid*.

[9] *Ibid*.

[10] *Ibid*.

732 filled posts against a funded establishment of 819 posts, with the vacancy rate standing at 10.6% (or 87 vacant posts).

3.3 Third Quarter Expenditure of 2019/20

Table 3: 2019/20 Third Quarter Expenditure

Programme R' Million	Main Appropriation	Available Budget	Q3 Actual Expenditure	Expenditure as % of Available Budget	Q3 Projected Expenditure	Variance from Projected Expenditure	% Variance from Projected Expenditure
Administration	463.0	443.0	303.6	68.5%	318.2	14.6	4.6%
Integrated Transport Planning	169.2	166.2	49.3	29.7%	131.2	81.9	62.4%
Rail Transport	16 573.8	16 573.8	12 313.5	74.3%	12 312.5	-1.1	0.0%
Road Transport	33 018.1	33 073.9	27 614.3	83.5%	26 269.1	-1 345.1	-5.1%
Civil Aviation Transport	245.1	243.3	127.1	52.2%	121.2	-5.9	-4.8%
Maritime Transport	136.8	136.8	97.1	71.0%	89.6	-7.5	-8.4%
Public Transport	13 588.1	13 568.1	7 669.1	56.5%	7 249.5	-419.7	-5.8%
Total	**64 204.6**	**64 205.1**	**48 174.1**	**75.0%**	**46 501.8**	**-1 682.8**	**-3.6%**

(Source: (National Treasury, 2019d)

By the end of the Third Quarter of 2019/20, the Department had spent R48.2 billion (or 75 %) of the total available budget. Spending was R1.7 billion (or 3.6%) higher than projected mainly due to transfers made earlier than had been planned in the Road Transport programme.[11] The Department had spent R360.4 million on the *Compensation of Employees* against the projection of R362.8 million, indicating lower than planned spending of R2.4 million (or 0.7%). This was due to the slow filling of vacant posts. The Department had 734 filled posts against a funded establishment of 819 posts. The vacancy rate stood at 10.4% (or 85 vacant posts).

[11] National Treasury (2019d).

By the end of the Third Quarter of 2019/20, the National Treasury had approved the following *virements* and shifting of funds:[12]

- R1.7 billion shifted from capital transfers to PRASA to current transfers to the Agency, i.e. R387.2 million and R1.3 billion from *Signalling* and *Metrorail*: *Refurbishment of Coaches*, respectively, to *Metrorail: Operations* to pay creditors such as municipalities and Eskom for electricity, as well as the court settlement for the illegal dismissal of employees.

3. POLICY PRIORITIES FOR 2020/21 AND ALIGNMENT WITH NATIONAL, REGIONAL, CONTINENTAL AND GLOBAL DEVELOPMENT AGENDAS

4.1 National Development Plan (NDP) and the Medium-Term Strategic Framework (MTSF)

The work of the Department contributes to the realisation of the vision of improved social and economic development articulated in the NDP and priorities 1 and 4 of Government's 2019-2024 MTSF. Chapter 4 of the NDP calls for the development of economic infrastructure as the foundation of social and economic development.

Transport is one of the Departments with the largest infrastructure build programme across entities.[13] Massive infrastructure investments are found in the Department entities PRASA, SANRAL and ACSA.

Priority 1 of the MTSF focuses on economic transformation and job creation, while priority 4 advocates spatial integration, human settlements and local Government.[14] It is against this backdrop that in the 2020/21 financial year, the Department has committed itself to giving effect to these guiding policies by focusing on:[15]

- Building and maintaining national and provincial networks;
- Providing rail infrastructure and services; and
- Facilitating the provision of integrated public transport networks (IPTNs).

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[12] *Ibid*.

[13] Department of Transport (2020).

[14] National Treasury (2020).

[15] *Ibid*.

Delivering his 2020 State of the Nation Address (SONA), President Ramaphosa accentuated two areas that the Department will be zeroing in on during 2020/21 as he committed Government to:[16]

- Fixing the commuter rail in an endeavour to modernise PRASA's rail network. In this regard, it undertook that R1.4 billion will be invested to refurbish and upgrade the Central Line in the Western Cape, while a similar amount will be allocated to the Mabopane Line in Pretoria; and
- Piloting of "an alternative rural roads programme during which four experimental roads stretches of 50 km will be constructed". It is maintained that this initiative will "ensure cost effective solutions to the State, meaningful skills transfer and higher potential for labour intensive job creation than conventional roads construction methods".[17]

4.2 Agenda 2063

The African Union (AU) envisions that by 2063 the necessary infrastructure will be in place to support Africa's accelerated integration and growth, technological transformation, trade and development. This will include high-speed rail networks, roads, shipping lines, sea and air transport, as well as Information and Communications Technology (ICT) and digital economy. A Pan-African high-speed rail network will connect all the major cities of the continent with adjacent ways and pipelines for gas, oil, water, ICT broadband cables and other infrastructure. This will serve as a catalyst for manufacturing skills development, integration and intra-African trade, investment and tourism. The Department has committed itself to contributing to the aspirations of "an integrated continent, politically united and based on the ideals of Pan Africanism and the vision of Africa's Renaissance".[18]

Investment in infrastructure is vital in addressing the challenges encountered in infrastructure maintenance and expansion that are crucial for the stabilisation of the country's economy and creation of new opportunities for growth, equity and employment. The current socio-economic challenges cannot be resolved utilising only the scope and resources of Government or any single role player. Enduring economic partnerships between Government and the private sector are

[16] Ramaphosa (2020).
[17] *Ibid*.
[18] Department of Transport (2019).

needed to develop trusting relationships for integrated operations, investments and management of transportation infrastructure.

A perusal of the Department's budget allocation for 2020/21 lends credence to its commitment to national, regional, continental and global imperatives. This is evidenced by strong investments in Road, Public and Rail Transport programmes respectively.

It is a truism that an efficient transport infrastructure provides social and economic benefits to both advanced and emerging economies by improving market accessibility. In addition, it ensures balanced regional, continental and global economic development. Finally, an efficient transport infrastructure creates employment, promotes labour mobility, and connects communities.

4. BUDGET ANALYSIS

The section below analyses the budget allocation for the Department for 2020/21.

Table 4: Overall Budget – Transport

Programme	**Budget**		**Nominal Increase / Decrease in 2020/21**	**Real Increase / Decrease in 2020/21**	**Nominal Percent change in 2020/21**	**Real Percent change in 2020/21**
R million	**2019/20**	**2020/21**				
Administration	443.0	491.8	48.8	28.1	11.0%	6.3%
Integrated Transport Planning	166.2	104.5	- 61.7	- 66.1	-37.1%	-39.8%
Rail Transport	16 573.8	13 195.2	- 3 378.6	- 3 934.7	-20.4%	-23.7%
Road Transport	33 073.9	33 816.7	742.8	- 682.4	2.2%	-2.1%
Civil Aviation Transport	243.3	240.7	- 2.6	- 12.7	-1.1%	-5.2%
Maritime Transport	136.8	149.4	12.6	6.3	9.2%	4.6%
Public Transport	13 568.1	14 038.0	469.9	- 121.7	3.5%	-0.9%
TOTAL	**64 205.1**	**62 036.3**	**- 2 168.8**	**- 4 783.4**	**-3.4%**	**-7.5%**

(Source: (National Treasury, 2020).

For 2020/21, the Department receives R62 billion (excluding direct charges) – constituting 6.4% of the R963.1 billion national budget vote.[19] Nominally (without inflation), the Department's budget declines by -3.4% from the previous financial year, and it decreases by -7.5% when one takes cognisance of inflation (real terms). The noticeable decreases are in the Integrated Transport

[19] National Treasury (2020).

Planning, and Rail Transport programmes respectively. The former goes down significantly by -39.8% (with inflation), while the latter declines with -23.7% (with inflation). The drastic decrease in the allocation to the Rail Transport programme begs the question in the light of the fact that the provision of rail infrastructure and services is underscored as one of the policy priorities for the Department for 2020/21.

In terms of economic classification, transfers and subsidies comprise R60.6 billion (or 97.7%) of the departmental budget, and the bulk is allocated to the following bodies:[20]

- Provinces and municipalities (R24.9 billion);
- Departmental agencies and accounts (R22.1 billion); and
- Public corporations and private enterprises (R13.1 billion).

The overall allocation to compensation of employees increases from R504.9 million previously to R571.4 million in 2020/21. Expenditure on consultants (business and advisory services) is set to decrease from R461.3 million in 2019/20 to R451.3 million in 2020/21. The notable reduction in the use of consultants (business and advisory services) is in the Integrated Transport Planning programme that decreases from R104.3 million in 2019/20 to R35.7 million in 2020/21, translating into a decrease of 65.8%. Conversely, funding for the use of consultants in the Public Transport programme increases from R233.1 million in the previous financial year to R281.5 million in 2020/21 (17.2% in real terms).

5.1 Programme Analysis

As stated in the introduction, the Department has seven programmes. What follows below is an analysis of the budget allocation for each programme, and where relevant or necessary, it refers to the programmes' sub-programmes.

[20] *Ibid*.

5.1.1 Programme 1: Administration

The Administration programme is entrusted with providing strategic leadership, management and support services to the Department. It comprises five sub-programmes, as illustrated in the table below:

Table 5: Programme 1: Administration

Programme	Budget		Nominal Increase / Decrease in 2020/21	Real Increase / Decrease in 2020/21	Nominal Percent change in 2020/21	Real Percent change in 2020/21
R million	2019/20	2020/21				
Ministry	41.1	39.8	- 1.3	- 3.0	-3.2%	-7.2%
Management	70.5	90.0	19.5	15.7	27.7%	22.3%
Corporate Services	234.6	259.5	24.9	14.0	10.6%	5.9%
Communications	37.9	40.2	2.3	0.6	6.1%	1.6%
Office Accommodation	59.0	62.3	3.3	0.7	5.6%	1.1%
TOTAL	**443.0**	**491.8**	**48.8**	**28.1**	**11.0%**	**6.3%**

(Source: (National Treasury, 2020).

The Administration programme receives R491.8 million, translating into a 6.3% above inflation increase from the previous financial year. All sub-programmes have above inflation increases, bar the *Ministry* sub-programme which declines with -7.2% below inflation. The *Corporate Services* sub-programme receives the biggest share of the Administration allocation, i.e. 52.8%. The exponential increase is to the *Management* sub-programme (an increase of 22.3% above inflation).

5.1.2 Programme 2: Integrated Transport Planning

The Integrated Transport planning programme integrates and harmonises macro-transport sector policies, strategies and legislation. In addition, it coordinates and develops sector-related policies, research activities, as well as regional and inter-sphere relations. The programme also facilitates sector information and provides sector economic modelling and analysis.

Table 6: Programme 2: Integrated Transport Planning

Programme	Budget		Nominal Increase / Decrease in 2020/21	Real Increase / Decrease in 2020/21	Nominal Percent change in 2020/21	Real Percent change in 2020/21
R million	**2019/20**	**2020/21**				
Macro Sector Planning	14.4	18.1	3.7	2.9	25.7%	20.4%
Freight Logistics	20.1	21.6	1.5	0.6	7.5%	2.9%
Modelling and Economic Analysis	93.4	24.2	- 69.2	- 70.2	-74.1%	-75.2%
Regional Integration	14.6	14.3	- 0.3	- 0.9	-2.1%	-6.2%
Research and Innovation	16.8	17.4	0.6	- 0.1	3.6%	-0.8%
Integrated Transport Planning Administration Support	7.0	8.8	1.8	1.4	25.7%	20.4%
TOTAL	**166.2**	**104.5**	**- 61.7**	**- 66.1**	**-37.1%**	**-39.8%**

(Source: (National Treasury, 2020).

The Integrated Transport Planning programme budget decreases significantly by -39.8% including inflation. The allocation totals R104.5 million in 2020/21, down from R166.2 million in the previous financial year. The highest decline is in *the Modelling and Analysis* sub-programme, down from R93.4 million in 2019/20 to R24.2 million in the current financial year. The sub-programme's allocation decreases by -75.2% with inflation (real terms).

The *Modelling and Economic Analysis* sub-programme is responsible for undertaking economic studies and providing "innovative and enabling transport infrastructure funding options that respond to the socioeconomic needs of the national agenda".[21] In addition, the sub-programme "applies economic analysis tools for the development of policy in the transport sector".[22] On the contrary, both the *Macro Sector Planning* and the *Integrated Transport Planning Administration Support* sub-programmes register the highest increase in the programme, each with 20.4% including inflation.

5.1.3 Programme 3: Rail Transport

The Rail Transport programme facilitates and coordinates the development of sustainable rail transport policies, rail economic and safety regulation, and infrastructure development strategies that reduce system costs and improve customer service. In addition, it oversees rail public entities

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[21] National Treasury (2020).

[22] *Ibid*.

and the implementation of integrated rail services. Five sub-programmes fall under this programme.

Table 7: Programme 3: Rail Transport

Programme	**Budget**		**Nominal Increase / Decrease in 2020/21**	**Real Increase / Decrease in 2020/21**	**Nominal Percent change in 2020/21**	**Real Percent change in 2020/21**
R million	**2019/20**	**2020/21**				
Rail Regulation	20.1	21.4	1.3	0.4	6.5%	1.9%
Rail Infrastructure and Industry Development	7.4	7.6	0.2	- 0.1	2.7%	-1.6%
Rail Operations	16.4	15.7	- 0.7	- 1.4	-4.3%	-8.3%
Rail Oversight	16 525.7	13 144.1	- 3 381.6	- 3 935.6	-20.5%	-23.8%
Rail Administration Support	4.1	6.4	2.3	2.0	56.1%	49.5%
TOTAL	**16 573.8**	**13 195.2**	**- 3 378.6**	**- 3 934.7**	**-20.4%**	**-23.7%**

(Source: (National Treasury, 2020).

Constituting 25.8% of the Department's budget, the Rail Transport programme is the second largest departmental spending area, after the Road Transport programme. However, the programme's budget goes down from R16.5 billion previously, to R13.2 billion in 2020/21. This translates into a below inflation real decrease of -23.7% and a decline of -20% nominally (not calculating for inflation). The *Rail Oversight* sub-programme receives the biggest allocation of the programme's budget, but decreases from R16.5 billion previously to R13.1 billion in 2020/21. This indicates an inflation-linked decrease of -23.8%. Transfers to PRASA to the value of R13.1 billion and R67 million to the Railway Safety Regulator (RSR) are funded from this sub-programme. Conversely, the allocation for the *Rail Administration Support* sub-programme increases exponentially by 49.5% above inflation, up from R4.2 million in 2019/20 to R6.4 million in the current financial year. Transfers to PRASA to the tune of R13.1 billion are divided up as per the tables below:

Table 8: PRASA Transfers: Current

Entity/Programme R million	Budget	
	2019/20	2020/21
Metrorail (Operations)	R4.4 billion	R4.6 billion
Mainline passenger services (Operations)	R1.1 billion	R1.2 billion
Rail maintenance operations and inventories	R811.0 million	R912.9 million
TOTAL	**R6.3 billion**	**R6.7 billion**

(Source: National Treasury (2020).

Table 9: PRASA Transfers: Capital

Entity/Programme R million	Budget	
	2019/20	2020/21
Other capital programmes	R600 million	R395.2 million
Rolling Stock Fleet Renewal	R5.8 billion	R3.6 billion
Signalling	R2.1 billion	R1.3 billion
Metrorail (Refurbishment of caches)	R1.5 billion	R913.8 million
Mainline Passenger Service (Refurbishment of coaches)	R169.2 million	R105. million
TOTAL	**R10.2 billion**	**R6.4 billion**

(Source: National Treasury (2020).

5.1.4 Programme 4: Road Transport

The Road Transport programme is entrusted with developing and managing an integrated road infrastructure network, as well as regulating transport and ensuring safer roads. Moreover, it oversees road transport public entities. The programme is divided into five sub-programmes.

Table 10: Programme 4: Road Transport

Programme	Budget		Nominal Increase / Decrease in 2020/21	Real Increase / Decrease in 2020/21	Nominal Percent change in 2020/21	Real Percent change in 2020/21
R million	2019/20	2020/21				
Road Regulation	46.5	47.8	1.3	- 0.7	2.8%	-1.5%
Road Infrastructure and Industry Development	32.6	38.4	5.8	4.2	17.8%	12.8%
Road Oversight	32 955.2	33 691.5	736.3	- 683.6	2.2%	-2.1%
Road Administration Support	11.8	9.6	- 2.2	- 2.6	-18.6%	-22.1%
Road Engineering Standards	27.7	29.4	1.7	0.5	6.1%	1.7%
TOTAL	**33 073.9**	**33 816.7**	**742.8**	**- 682.4**	**2.2%**	**-2.1%**

(Source: National Treasury (2020).

The total expenditure for the Road Transport programme grows from R33.1 billion in 2019/20 to R33.9 billion in 2020/21. While this constitutes a nominal increase of 2.2%, when taking into account the effects of inflation (real terms) its allocation in fact decreases with -2.1 % from the previous financial year.

For this programme, the highest increase is for the *Road Infrastructure and Industry Development* sub-programme whose allocation goes from R32.6 million in 2019/20 to R38.4 million in 2020/21, resulting in 12.8% above inflation. However, the *Road Oversight* sub-programme dominates the programme budget, going up from R32.6 billion previously to R33.7 billion in the current financial year. While the sub-programme's allocation increases nominally by 2.2%, it decreases by -2.1% below inflation.

The *Road Oversight* sub-programme reviews and analyses the performance of road transport public entities and monitors their compliance with regulations and legislation. It also transfers funds to SANRAL, the Road Traffic Management Corporation (RTMC), and the Road Traffic Infringement Agency (RTIA). Moreover, the sub-programme makes provision for the Provincial Roads Maintenance Grant (PRMG).

Major transfers from the Road Transport programme are as follows:[23]

Table 11: Major Transfers from the Road Transport Programme

Entity/ Programme R million	**Budget**	
	2019/20	**2020/21**
RTMC	R210.2 million	R220.5 million
SANRAL: Gauteng Freeway Improvement Project (GFIP)	R550.5 million	R600.1 million
RTIA	R7.8 million	R8.2 million
SANRAL	R5.6 billion	R6.9 billion
SANRAL: Non-toll network	R12.3 billion	R12.4 billion
SANRAL: Moloto Road upgrade	R1.7 billion	R785 million
SANRAL: N2 Wild Coast	R1 billion	R1.1 billion
Rural Roads Asset Management Systems (RRAMS) Grant	R113.9 million	R108.4 million
PRMG: Road maintenance component	R10.6 billion	R11.6 billion
PRMG: Disaster relief component	R266.9 million	-
PRMG: Mpumalanga coal haulage roads maintenance	R526.2 million	-

(Source: National Treasury (2020).

[23] National Treasury (2020).

Expenditure under Programme 4 lends credence to policy priorities for 2020/21. Poor road conditions are a significant contributor to the costs of moving people and goods within South Africa and across the Southern African region, increasing travel time and vehicle operating costs. There is, therefore, an imperative to improve national, provincial and municipal road networks.

5.1.5 Programme 5: Civil Aviation Transport

The Civil Aviation Transport programme facilitates the development of an economically viable air transport industry that is safe, secure, efficient, environmentally friendly and compliant with international standards through regulations and investigations. In addition, it oversees aviation transport public entities.

Table 12: Programme 5: Civil Aviation Transport

Programme	**Budget**		**Nominal Increase / Decrease in 2020/21**	**Real Increase / Decrease in 2020/21**	**Nominal Percent change in 2020/21**	**Real Percent change in 2020/21**
R million	**2019/20**	**2020/21**				
Aviation Policy and Regulations	25.5	29.7	4.2	2.9	16.5%	11.6%
Aviation Economic Analysis and Industry Development	14.5	15.9	1.4	0.7	9.7%	5%
Aviation Safety, Security, Environment, and Search and Rescue	121.5	112.5	- 9.0	- 13.7	-7.4%	-11.3%
Aviation Oversight	72.9	76.5	3.6	0.4	4.9%	0.5%
Aviation Administration Support	9.0	6.2	- 2.8	- 3.1	-31.1%	-34%
TOTAL	**243.3**	**240.7**	**- 2.6**	**- 12.7**	**-1.1%**	**-5.2%**

(Source: National Treasury (2020).

For 2020/21, the allocation to the Civil Aviation Transport programme equals R240.7 million, down from R243.3 million previously, translating into a decrease of -5.2% after inflation. The major decrease is in the *Aviation Administration Support* sub-programme that constitutes a -34% decrease with inflation. The sub-programme's allocation declines from R9 million in 2019/20 to R6.2 million in 2020/21. The second highest decrease (-11.3% with inflation) is in the *Aviation Safety, Security, Environment, and Search and Rescue* sub-programme, going down from R121.5 million in 2019/20 to R112.5 million in 2020/21.

5.1.6 Programme 6: Maritime Transport

The Maritime Transport programme promotes a safe, reliable and economically maritime transport sector through the development and implementation of policies and strategies. In addition, the programme oversees maritime public entities. Five sub-programmes fall under the Maritime Transport programme.

Table 13: Programme 6: Maritime Transport

Programme	**Budget**		**Nominal Increase / Decrease in 2020/21**	**Real Increase / Decrease in 2020/21**	**Nominal Percent change in 2020/21**	**Real Percent change in 2020/21**
R million	**2019/20**	**2020/21**				
Maritime Policy Development	16.2	13.0	- 3.2	- 3.7	-19.8%	-23.1%
Maritime Infrastructure and Industry Development	12.9	19.5	6.6	5.8	51.2%	44.8%
Implementation, Monitoring and Evaluation	59.1	68.3	9.2	6.3	15.6%	10.7%
Maritime Oversight	41.5	43.8	2.3	0.5	5.5%	1.1%
Maritime Administration Support	7.1	4.8	- 2.3	- 2.5	-32.4%	-35.2%
TOTAL	**136.8**	**149.4**	**12.6**	**6.3**	**9.2%**	**4.6%**

(Source: National Treasury (2020).

The budget allocation for the Maritime Transport programme increases from R136.8 million in 2019/20 to R149.4 million in 2020/21, translating into an increase of 4.6% above inflation. The biggest budget increase is in the *Maritime Infrastructure and Industry Development* sub-programme that grows up from R12.9 million in 2019/20 to R19.5 million in 2020/21. This indicates an above inflation increase of 44.8%. This sub-programme facilitates the development of integrated maritime infrastructure and a maritime industry. Conversely, the *Maritime Administration Support* sub-programme has a noticeable decrease, down from R7.1 million in the previous financial year to R4.8 million in the current financial year, indicating a decline of -35.2% with inflation.

5.1.7 Programme 7: Public Transport

The Public Transport programme is tasked with providing and regulating safe, secure, reliable, cost-effective and sustainable public transport services in South Africa through legislation, policies and strategies. The Public Transport programme comprises six sub-programmes.

Table 14: Programme 7: Public Transport

Programme	Budget		Nominal Increase / Decrease in 2020/21	Real Increase / Decrease in 2020/21	Nominal Percent change in 2020/21	Real Percent change in 2020/21
R million	**2019/20**	**2020/21**				
Public Transport Regulation	53.3	62.1	8.8	6.2	16.5%	11.6%
Rural and Scholar Transport	40.5	45.4	4.9	3.0	12.1%	7.4%
Public Transport Industry Development	203.2	217.5	14.3	5.1	7.0%	2.5%
Public Transport Oversight	13 232.4	13 679.1	446.7	- 129.8	3.4%	-0.9 %
Public Transport Administration Support	17.7	12.6	- 5.1	- 5.6	-28.8%	-31.8%
Public Transport Network Development	21.0	21.3	0.3	- 0.6	1.4%	-2.9%
TOTAL	**13 568.1**	**14 038.0**	**469.9**	**- 121.7**	**3.5%**	**-0.9%**

(Source: National Treasury (2020).

In 2020/21, Programme 7 receives R14 billion, up from R13.6 billion in 2019/20. However, this increase did not keep track with the effects of inflation, and it therefore declines with -0.9%. The biggest increase is in the *Public Transport Regulation* sub-programme which receives R62.1 million in 2020/21, up from R53.3 million previously, indicating an increase of 11.6% above inflation. This sub-programme manages the development and maintenance of policy, legislation and regulation. It also coordinates and facilitates implementation.

On the contrary, the marked decrease in the allocation is in the *Public Transport Administration Support* sub-programme that goes down from R17.7 million in the previous financial year to R12.6 million in the current financial year. This indicates a decrease of -31% that does not keep track with the effects of inflation.

Selected transfers in the Public Transport programme are as follows:[24]

Table 15: Selected Transfers in the Public Transport programme

Entity/Programme R million	Budget	
	2019/20	**2020/21**
Taxi Recapitalisation Programme (TRP)	R414.7 million	R458.6 million
South African National Taxi Council (SANTACO)	R23.8 million	R25.1 million

[24] National Treasury (2020).

Entity/Programme R million	Budget	
	2019/20	2020/21
Public Transport Network Grant (PTNG)	R6.5 billion	R6.4 billion
Public Transport Operations Grant (PTOG)	R6.3 billion	R6.7 billion
TOTAL	**R13.2 billion**	**R13.7 billion**

(Source: National Treasury (2020).

6. 2020/21 ANNUAL PERFORMANCE PLANS, STRATEGIC AND CORPORATE PLANS AS WELL AS ESTIMATES OF NATIONAL EXPENDITURE PER ENTITIES

This report summarises the Key Performance Indicators presented by the entities in terms of their APPs and Corporate Plans as well as their Budget allocations for the 2020/21 financial year.

6.1 Airports Company South Africa (ACSA)

ACSA was established terms of the Airports Company Act (1993) and the Companies Act (2008). Listed as a schedule 2 entity in terms of the Public Finance Management Act (1999), the company owns and operates 9 of South Africa's principal airports, including OR Tambo International Airport, Cape Town International Airport and King Shaka International Airport, it is also one of the concessionaires operating Mumbai International Airport in India and Guarulhos International Airport in Sao Paulo, Brazil.

Over the medium term, the company will continue to focus on airport development, management and maintenance. It anticipates that 67.7 million passengers will depart from these 9 airports and 827 581 aircraft will arrive at them over the MTEF period. To support this, total expenditure is expected to increase from R6.7 billion in 2019/20 to R8.8 billion in 2022/23, at an average annual rate of 9.5 per cent. The company's spending of R13.9 billion over the medium term on capital and infrastructure is expected to be financed through a combination of borrowings (R7.4 billion) and cash reserves.

Total revenue over the MTEF period is expected to amount to R27.2 billion, with aeronautical and nonaeronautical revenue comprising 97.6 per cent of this amount. Aeronautical revenue, which includes income from passenger facilitation and airline services, such as charges and tariffs for aircraft parking and landing fees, is expected to amount to R13.4 billion; and non-aeronautical revenue from property rentals, advertising and parking fees is expected to amount to R12.9 billion.

6.2 Passenger Rail Agency of South Africa (PRASA)

PRASA was established in terms of the Legal Succession to the South African Transport Services Amendment Act (2008), with the primary mandate of providing rail commuter services within, to and from South Africa in the public interest. The agency also provides long-haul passenger rail and bus services within, to and from South Africa.

In its efforts to stabilise operations, over the medium term, the agency will focus on responding to its historic challenge of underspending on capital programmes with the aim of reducing its persistent operating deficits.

Accordingly, to increase the number of passengers using Metrorail and mainline passenger services, the agency plans to continue its modernisation programme. Over the MTEF period, this entails: refurbishing a targeted 1 314 train coaches; upgrading and improving 150 stations; upgrading signalling infrastructure; improving depots; acquiring 166 new train sets; and securing the agency's assets, including all stations.

As a result of historic underspending on capital programmes, the agency had a cash balance of R18.3 billion at the end of 2018/19, which it plans to use over the medium term on infrastructure for Metrorail and mainline passenger services. An estimated 66.3 per cent (R36 billion) of the agency's total expenditure of R54.4 billion over the medium term is earmarked for spending on the Metrorail and mainline passenger services programmes, including the modernisation programme.

Total revenue over the MTEF period is expected to be R44.4 billion, of which transfers from the department account for an estimated 70.1 per cent (R30.4 billion). Other sources of revenue include the sale of train and bus tickets, rental income from the leasing of properties, on-board sales, and interest earned. Partly due to the non-payment of fares by passengers, total revenue is expected to increase at an average annual rate of 4.1 per cent, from R14 billion in 2019/20 to R15.8 billion in 2022/23. As a result, the agency's operating deficit is set to increase from R2 billion in 2019/20 to R4.1 billion in 2020/21. Persistent operating deficits are expected to result in the agency's trade and other payables increasing from R11.9 billion in 2019/20 to a projected R29.3 billion in 2022/23, at an average annual rate of 34.9 per cent.

6.3 Road Accident Fund (RAF)

The RAF is a juristic person established in terms of the Road Accident Fund Act (No. 56 of 1996). The RAF provides compulsory social insurance cover to all users of South African roads, rehabilitates and compensates people injured as a result of the negligent driving of motor vehicles in a timely and active manner. In addition, the RAF actively promotes the safe use of the nation's roads. According to the Act, the object of the RAF is the payment of compensation in accordance with the Act for loss or damage wrongfully caused by the driving of a motor vehicle.

The fund receives its revenue from the road accident fund fuel levy, in terms of the Customs and Excise Act (1964). Over the medium term, revenue from the fuel levy is expected to increase at an average annual rate of 1.2 per cent, from R43.9 billion in 2019/20 to R45.4 billion in 2022/23. Due to the fund operating on a pay-as-you-go model and paying out what it is able to with the revenue it has, it has insufficient revenue to meet its liabilities, thereby increasing its indebtedness. Claims against the fund increased from R66 billion in 2016/17 to R108.3 billion in 2019/20, and are expected to increase to R145.6 billion in 2022/23. As a result, the accumulated deficit is expected to increase from R329.7 billion in 2019/20 to R593.1 billion in 2022/23.

To address this systemic challenge, the Road Accident Benefit Scheme Bill proposes to transform the fund from a liability insurance scheme to a system based on social security principles. This is expected to result in a more equitable and affordable road accident compensation scheme. In the meantime, the fund is developing a turnaround plan to prioritise, amongst others, reducing legal fees and transforming the claims management systems and processes.

6.4 South African National Roads Agency (SANRAL)

SANRAL was established in terms of the South African National Roads Agency Limited and the National Roads Act (1998) and is registered in terms of the Companies Act (2008). The agency is mandated to finance, develop, improve, maintain and manage South Africa's national road network for both toll and non-toll roads. The focus of the agency over the medium term will be on the maintenance, improvement, development and overall preservation of roads.

Due to the entity not having tabled their Strategic Plan and APP in time for consideration as part of this report, the information herein only focusses on the budget allocation per the estimates of national expenditure as tabled per the Budget Vote 40.

Total expenditure is expected to decrease at an average annual rate of 6.8 per cent over the MTEF period, from R24.1 billion in 2019/20 to R19.5 billion in 2022/23. This is mainly driven by an overall decrease in spending on road maintenance of 3.6 per cent, from R10.2 billion in 2019/20, increasing to R14 billion in 2021/22 and decreasing to R9.2 billion in 2022/23. As the spending for maintenance decreases, capital investment is set to increase at an average annual rate of 3.8 per cent, from R10.8 billion in 2019/20 to R12.1 billion in 2022/23.

The agency expects its headcount to increase from 442 in 2019/20 to 490 in 2022/23 as it fills vacancies to better align its organisational structure with its operations. As a result, spending on compensation of employees is expected to increase at an average annual rate of 15.4 per cent, from R523.1 million in 2019/20 to R803.2 million in 2022/23.

The agency's total revenue over the MTEF period is expected to be R62.1 billion. Of this amount, it is set to derive R42.7 billion through departmental transfers and R14.7 billion through toll road fees. Despite Cabinet's approved reductions of R1.4 billion on transfers to the agency, total revenue is expected to increase from R19.1 billion in 2019/20 to R21.8 billion in 2022/23 at an average annual rate of 4.4 per cent.

6.5 Air Traffic and Navigation Services Company (ATNS)

ATNS was established in terms of the Air Traffic and Navigation Services Act (1993) with the mandate of providing safe, orderly and efficient air traffic navigational and associated services, in accordance with the standards of the International Civil Aviation Organisation, to the air traffic management community.

The company will, over the medium term, continue to focus on providing safe, efficient and cost-effective air traffic management solutions and related services as it expands its footprint to cover the rest of Africa and the Indian Ocean region. As a result of this focus, an estimated 69.6 per cent (R4 billion) of the company's total expenditure over the medium term is earmarked for investment in communication and simulation systems, which are essential to ensuring safety and improved capacity at airports. Total expenditure is expected to increase from R1.7 billion in 2019/20 to R2 billion in 2022/23 at an average annual rate of 6.9 per cent.

The company generates revenue by providing aeronautical services to the aviation industry. Total revenue is expected to increase from R1.8 billion in 2019/20 to R2.1 billion in 2022/23 at an average annual rate of 6.2 per cent as a result of a projected increase in tariff fees.

6.6 Cross-Border Road Transport Agency (C-BRTA)

C-BRTA is a schedule 3A public entity established in terms of the Cross-Border Road Transport Act (1998). The agency's legislative mandate requires it to advise the Minister of Transport on cross-border road transport policy, regulate access to the market by the road transport freight and passenger industry in respect of cross-border road transport by issuing permits, undertake road transport law enforcement, and play a facilitative role in contributing to the economic prosperity of the region.

6.7 Driving Licence Card Account (DLCA)

DLCA manufactures credit card-format driving licences based on orders received from driving licence testing centres, and generates its own revenue through the sale of licence cards.

The provision of driver licences started in 1998 as non-line function until 2007 when the Treasury approval was granted and the instruction was received to create a trading entity called the Driving Licence Credit Card Trading Entity Account (aka DLCA) with retrospective effect to produce credit card format driving license cards.

As part of the conditions of establishment of the DLCA, the National Treasury stated that the Accounting Officer of the Department is the Accounting Officer of the Trading Account.

The entity is a self-funding establishment. Prodiba was contracted during 1997/1998 to manage the production of the new credit card licences and was responsible for the production of the cards until 5 May 2015 when the Department as per a court order took over the card production facility. As part of the take-over, the DLCA also took over the day-to-day operations of the business. Since then the staff of the production unit have been appointed as contract workers.

Of particular importance for the 2020/21 performance, would be the new card project. The DLCA took over the card production facility in 2015 and discovered that the card machine had not been upgraded since 1998 and that the live capture units (LCUs) also needed an upgrade. The DLCA embarked on a journey to modernise the card production environment which involved the replacement of the LCUs with LEUs and the introduction of a new driving licence card. The DLCA at same time, started with the project for the introduction of a new driving licence card but the security of the card design was compromised when the laptop of the DLCA official was stolen. The new card project has been resuscitated in 2020/21 and it is envisaged that a new durable driving licence card with improved security features will be introduced by the end of 2021/22. This new driving licence card will also be ISO 18013 compliant thereby ensuring that it is internationally accepted. The estimates of national expenditure indicate the entity's total budget for 2020/21 as R230.2 million. The entity's estimated expenditure for 2019/20 was R235 million.

6.8 Ports Regulator of South Africa (PRSA)

The Ports Regulator derives its mandate from the National Ports Act (No. 12 of 2005) and policy instruments such as the White Paper on Commercial Ports (2002) and the Comprehensive Maritime Transport Policy.

PRSA performs functions that relate mainly to the regulation of pricing and other aspects of economic regulation, the promotion of equal access to ports facilities and services, the monitoring of the industry's compliance with the regulatory framework, and the hearing of any complaints and appeals lodged with it. The regulator's total budget for 2020/21 is R40.4 million. The regulator's estimated expenditure for 2019/20 was R37.4 million.

6.9 Railway Safety Regulator (RSR)

The RSR was established in terms of the National Railway Safety Regulator Act (No. 16 of 2002) as amended, to establish a national regulatory framework for South Africa, and to monitor and enforce compliance in the rail sector. The primary legislative mandate of the RSR is to oversee and enforce safety performance by all railway operators in South Africa, including those of neighbouring States whose rail operations enter South Africa. In terms of the Act, all operators are primarily responsible and accountable for ensuring the safety of their railway operations. The regulator's total budget for 2020/21 is R248.9 million. The regulator's estimated expenditure for 2019/20 was R240.6 million.

6.10 Road Traffic Infringement Agency (RTIA)

The RTIA is a Schedule 3A public entity listed in the PFMA and is established by section 3 of the Administrative Adjudication of Road Traffic Offences Act of 1993. The Agency reports to the Executive Authority i.e. the Minister of Transport. The Minister appoints a Board which serves to provide an oversight role.

RTIA promotes road traffic quality by providing for a scheme to discourage road traffic infringements to support the prosecution of offences in terms of national and provincial laws relating to road traffic, and implements a points demerit system. The agency's total budget for 2020/21 is R286.4 million. The agency's estimated expenditure for 2019/20 was R258.9 million.

6.11 Road Traffic Management Corporation (RTMC)

The RTMC was established in terms of Section 3 of the Road Traffic Management Corporation Act, No. 20 of 1999, for co-operative and coordinated strategic planning, regulation, facilitation and law enforcement in respect of road traffic matters by the national, provincial and local spheres of government. The corporation's total budget for 2020/21 is R1.5 billion. The corporation's estimated expenditure for 2019/20 was R1.5 billion.

6.12 South African Civil Aviation Authority (SACAA)

The South African Civil Aviation Authority (SACAA) was stablished on 01 October 1998, following the enactment of the now repealed South African Civil Aviation Authority Act, 1998 (No. 40 of 1998). This Act was replaced by the Civil Aviation Act, 2009 (Act No. 13 of 2009), which came into effect on 31 March 2010.

SACAA is a Schedule 3A public entity. The Civil Aviation Act provides for the establishment of a stand-alone authority, mandated with controlling, promoting, regulating, supporting, developing, enforcing and continuously improving levels of safety and security throughout the civil aviation industry. The above was achieved by complying with the Standards and Recommended Practices (SARPs) of the International Civil Aviation Organization (ICAO), whilst considering the local context. The entity's estimated expenditure for 2019/20 was R792.5 million.

6.13 South African Maritime Safety Authority (SAMSA)

SAMSA is a Schedule 3A public entity in terms of the PFMA. The entity was established on 1 April 1998, subsequent to the enactment of the South African Maritime Safety Authority Act (No. 5 of 1998). The Act provides for the establishment of an authority charged with regulating and enforcing maritime safety, marine pollution from ships and promoting South Africa's maritime interests. The entity is governed and controlled by a Board of Directors that are appointed by the Minister of Transport, in terms of the SAMSA Act. The authority's total budget for 2020/21 is R531.2 million. The entity's estimated expenditure for 2019/20 was R505.7 million.\

7. COMMITTEE OBSERVATIONS

As general observations, the Committee remained of the view that there needs to be greater alignment in all the entities between their Key Performance Indicators and the outcome of actual service delivery or improvements to service delivery to the people. The Committee will no longer accept that an entity might meet 100% of its set targets, while actual service delivery felt on the ground does not equate to the set targets or the expenditure on set targets or that those targets are not truly measurable when linked to service delivery outcomes. Furthermore, the Committee was of the view that transformation targets for the entities were not sufficient to deliver true transformation in the various industries.

At the time of engagements with the entities (SACAA, DLCA and PRASA) and following an assessment of the status at other entities, the Committee was still of the view that vacancies in the Boards and Management of the entities must be dealt with as a matter of urgency, as was stated in the 2019 Budget Vote Report by the Committee. There was also a concern expressed that SANRAL was unable to submit its APP or Strategic Plan by the legislated timeframes, and that this may also lead to a late submission and tabling of its Annual Report.

The impact of Covid-19 restrictions on the various transport industry players was concerning. The Committee was concerned on how the budget re-allocations and target adjustments as a result of the Covid-19 measures would impact the audit outcomes of the entities.

Members made the following observations during discussions:

7.1 Allocation for road maintenance

SANRAL has had an increase of R11.4 billion on 21 000 kilometres of road network, whereas about 49 000 kilometres of South Africa's tar road network are under the jurisdiction of provincial departments of transport, these were only budgeted over 5 years to receive a R4 billion increase. This funding increase difference between a national road agency as compared to all nine provincial road maintenance allocations appeared unjustified.

7.2 Impact of the Covid-19 pandemic restrictions on the entities of the Department

The Committee expressed concern about the impact of Covid-19 travel, transport and construction restrictions on entities such as the RAF, ACSA, SACAA, ATNS, PRASA, DLCA, C-BRTA and SANRAL.

It was noted that the RAF would be severely affected by the Covid-19 lockdown restriction specific to the driving population as the reduction in fuel sales would affect RAF income which in turn will affect its ability to process payments to claimants.

The aviation industry (ACSA, SACAA, ATNS) was regarded as one industry that was severely affected by global restrictions imposed to prevent the spread of the Covid-19 pandemic.

The DLCA would be financially affected by the restriction on issuing and renewals of driving licence cards during the lockdown restriction periods and this would also impact its production of cards which would likely lead to a backlog once production is allowed to commence. This is of particular concern as the entity had only just recently caught up to the backlogs caused by a strike during the 2019/20 year.

PRASA had already shown a concerning decline in passenger revenue over the previous years and would be severely impacted by the lockdown restrictions as the PRASA passenger rail industry would only be allowed to reconvene operations during the level 3 restriction phase.

C-BRTA revenue would be affected by the limitation on cross-border transportation of only essential goods during the level 5 and 4 restrictions.

SANRAL operations would be affected by the restrictions during level 5 as well as level 4 where only essential infrastructure maintenance and construction would have been allowed. Any projected toll income during the lockdown restrictions would also have been reduced dramatically, given that the country was under complete lockdown during the Easter holiday period.

7.3 Implementation of the IPTNs

Concern was raised about the progress on the planned targets for roll-out of the IPTNs in the municipalities compared to the billions of allocated funds already spent on the projects. It was noted that more than R41 billion was spent on the 13 cities for the implementation of the BRT systems, yet very few of them were functioning.

7.4 Shova Kalula

The R22 million budget for the implementation of the Shova Kalula bicycle programme was noted, however, it was further noted that the implementation of the project or any of the value add services (such as bicycle repair services near the roll-out areas) that were meant to be implemented by the bicycle project was not visible in provinces such as the Free State.

7.5 Gauteng Freeway Improvement Project (GFIP)

Members were of the view that the e-toll issue must be finalised as it was not acceptable to have it drag on any longer.

7.6 Under expenditure of the Administration programme

The continued under expenditure of the administration programme was noted as well as the 10% vacancy rate reduction target which had been repeated over the 2018/19 and 2019/20 financial years.

7.7 Increase in use of consultants in the Public Transport programme

The 17.2% increase in use of consultants in the Public Transport programme was raised as a concern despite the Cabinet decision regarding the limitation in the usage of consultants.

7.8 Funding of programmes

Concern was raised regarding the funding for some programmes. It was noted that the Department kept asking for funding in programmes where it showed regular underspending, for example the Taxi Recapitalisation Programme.

7.9 Infrastructure development

More information was requested on the budget allocation for infrastructure development, as this matter was not presented on in detail by the Department.

7.10 Taxi Recapitalisation programme

The Taxi Recapitalisation programme had been running for 20 years and a revised programme was recently implemented, however, so far only 72 653 taxis had been scrapped and R4.5 billion was already spent. It was noted that the Minister mentioned formalisation of the industry, but members did not see any budget allocation for that in the presentation. Only an increase in the Revised Taxi Recapitalisation programme budget allocation was noted and this was a concern. The Committee further noted with concern that the taxi industry would be included into the integrated single ticket system that would be implemented by 2023, while the industry was not yet formalised.

7.11 Universal accessibility

Accessibility of public transport by people with disabilities remained a concern to the Committee.

7.12 Operational risks on Western Cape Railway Lines

The Department was asked to explain the steps it and PRASA took to reduce operational risks on the Western Cape railway lines. Trains were being burned and there was no discussion on how the matter would be resolved.

7.13 Provincial Road Maintenance Grant (PRMG)

In the 2019/20 financial year there was an allocation for the Provincial Road Maintenance Grant (PRMG) in disaster relief and Coal haulage. This allocation was not reflected in the 2020/21 budget.

7.14 Moloto Road Upgrade

The Department was asked to clarify whether the Moloto Road upgrade, done by SANRAL, would be contributed to with funds by provinces benefitting from the road upgrade and whether the road would remain under SANRAL assets or post-upgrade be moved back to provinces.

7.15 Reduction in the capital expenditure budget of PRASA

The Committee noted the reduction in the capital expenditure budget of PRASA.

7.16 Vacancies and Acting Positions

The Committee noted that there was some progress made by the Department and its entities in finalising the filling of Board and executive management posts. The Committee appreciated that the Covid-19 restrictions would impact the planned filling of vacancies, but there was still a need to ensure the filling of essential posts.

7.17 Scholar Transport and Public Transport Covid-19 Prevention

The Committee noted that the Department would need to allocate funds to assist with the sanitisation measures that must be in place going forward to combat the spread of Covid-19 on public transport and scholar transport modes.

7.18 Impact of Rating Agency Downgrades on Entities

The Committee noted that there had been rating agency downgrades after the tabling of the entities' plans. However, there was a concern on how this would impact ACSA and SANRAL going forward.

8. COMMITTEE RECOMMENDATIONS

The Committee recommends that the Minister, through the Department, should ensure the following:

8.1 Impact of the Covid-19 pandemic as well as ratings agencies' downgrade on the Department as well as its entities

The Department should provide detail on how it envisioned the impact of the Covid-19 regulations as well as the ratings agencies' downgrade on budget re-prioritisation for the Department and its entities in terms of the estimations and programme allocation.

8.2 Increase in use of consultants in the Public Transport programme

The Department must brief the Committee on all consultants used and the expenditure linked to these appointments. The Department should indicate whether the consultants transferred relevant skills to the employees of the Department.

8.3 Infrastructure development

More information was requested on the budget allocation for infrastructure development, as this matter was not presented on in detail by the Department.

8.4 Universal accessibility

The Department and its entities should increase the implementation of programmes aimed at increasing Universal Access to all modes of public transport and for all transport and road infrastructure.

8.5 Operational risks in all its operational lines

The Department and PRASA should provide the Committee with detailed plans to reduce operational risks on the railway lines.

8.6 Provincial Road Maintenance Grant (PRMG)

The Department should provide the Committee with quarterly monitoring reports on the implementation of the PRMG.

8.7 Moloto Road Upgrade

The Department should provide the Committee with an updated presentation on the project as well as the maintenance plan for the Moloto Road.

8.8 Shova Kalula

The Department deliver quarterly updates to the Committee on the progress made regarding the programme. The report should include information on where the bicycles have been distributed, the number of bicycles distributed and plans for future distribution.

8.9 Implementation of the IPTNs

The Department deliver an updated report to the Committee on the roll-out, expenditure and reasons for delays in active operations of the IPTN programmes in the 13 original cities as well as the way forward with the remaining 10 cities.

8.10 Taxi Recapitalisation programme

The Department deliver an updated report on the roll out of the revised taxi recapitalisation programme and how it aims to work towards formalisation and corporatisation of the taxi industry.

Report to be considered.

ANNEXURE A: LIST OF ABBREVIATIONS/ACRONYMS

Abbreviation/Acronym	Meaning
AARTO	Administrative Adjudication of Road Traffic Offences
ACSA	Airports Company South Africa
AFCAC	African Civil Aviation Commission
AGM	Annual General Meeting
AGSA	Auditor-General of South Africa
AI	Aviation Infrastructure
AIC	Aeronautical Information Circular
AIMO	Aeronautical Information Management Officer
ANSP	Air Navigation Service Provider
APP	Annual Performance Plan
ARDP	(Draft) Access Road Development Plan
ASO	Aviation Security Operations
ATM	Air Traffic Management
ATNS	Air Traffic Navigation Services
ATS	Air Traffic Services/ Aircraft Tracking Systems
ATSO	Air Traffic Service Officer
AU	African Union
AvSec	Aviation Security
BAC	Bid Adjudication Committee
BARSA	Board of Airlines Representatives of South Africa
B-BBEE	Broad-Based Black Economic Empowerment
BRICS	Brazil, Russia, India, China and South Africa
BRRR	Budget Review and Recommendations Report
BRT	Bus Rapid Transport
CANSO	Civil Air Navigation Organisation
CAPEX	Capital Expenditure
Cat	Civil Aviation Technical
C-BRTA	Cross-Border Road Transport Agency
C-BRTRF	Cross-Border Road Transport Regulators Forum
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CNG	Compressed Natural Gas
CNS	Communications, Navigation and Surveillance
COTO	Committee of Transport Officials
CPO	Chief Procurement Office
DCA	Director of Civil Aviation
DG	Director-General
DGEC	Directors-General of the Economic Cluster
DDG	Deputy-Director General
DGOs	Dangerous Goods Operators
DLCA	Driving Licence Card Account
DLTC	Driving Licence Testing Centres
DPE	Department of Public Enterprises

DPME	Department of Planning, Monitoring and Evaluation
DPSA	Department of Public Service and Administration
EDL	Examiner of Driving Licences
EE	Employment Equity
EI	Effective Implementation
eNaTIS	Electronic National Traffic Information System
EoV	Examiner of Vehicles
ESEID	Economic Sectors, Employment and Infrastructure Development
EXCO	Executive Committee
FIU	Flight Inspection Unit
FMPPI	Framework for Managing Programme Performance Information
FOSAD	Forum of South African Directors-General
GA	General Aviation
GFIP	Gauteng Freeway Improvement Project
GHG	Greenhouse Gas
GDP	Gross Domestic Product
GDYC	Gender, Disability, Youth and Children
GTS	Green Transport Strategy
HR/HRD	Human-Resource/Human-Resource Development
IA	Issuing Authority
ICAD	International Civil Aviation Day
ICAO	International Civil Aviation Organisation
ICT	Information and Communications Technology
IMO	International Maritime Organisation
IPAP	Industrial Policy Action Plan
IPTNs	Integrated Public Transport Networks
IPTTP	Integrated Public Transport Turnaround Plan
IRERC	Interim Rail Economic Regulatory Capacity
IT	Information Technology
KPI	Key Performance Indicator
LDV	Light Delivery Vehicle
LEU	Live Enrolment Unit
LPG	Liquefied Petroleum Gas
MARPOL	International Convention for the Prevention of Pollution from Ships
MECs	Members of the Executive Council
MEOSAR	Medium Earth Orbit Search and Rescue
MET	Maritime and Training
MLPS	Long Distance (Main Line) Passenger Service
MOSP	Master Oversight and Surveillance Plan
MOU	Memorandum of Understanding
MRCC	Maritime Rescue and Coordination Centre
MTEF	Medium-Term Expenditure Framework
MTP	Comprehensive Maritime Transport Policy
MTSF	Medium-Term Strategic Framework (2014-19)
MTT	Ministerial Task Team

M&E	Monitoring and Evaluation
NA	National Assembly
NADP	National Airports Development Plan
NAFISAT	North East Africa Indian Ocean VSAT Network
NATMAP 2050	National Transport Master Plan 2050
NCAP	National Civil Aviation Policy
NCLB	No Country Left Behind
NCCRS	National Climate Change Response Strategy
NCOP	National Council of Provinces
NDP	National Development Plan
NEDLAC	National Economic Development and Labour Council
NGO	Non-governmental Organisation
NICRO	South African National Institute for Crime Prevention and the Reintegration of Offenders
NIP	National Infrastructure Plan
NLTA	National Land Transport Act
NQF	National Qualifications Framework
NRSS	National Road Safety Strategy
NRTA	National Road Traffic Act
NRTLEC	National Road Traffic Law Enforcement Code
NSRI	National Sea Rescue Institute
NT	National Treasury
PEPFRA	Ports Economic Participation Framework
PFMA	Public Finance Management Act
PICC	Presidential Infrastructure Coordinating Commission
PMDS	Performance Management and Development System
PPP	Public-Private Partnership
PRASA	Passenger Rail Agency of South Africa
PRSA	Ports Regulator of South Africa
PRMG	Provincial Roads Maintenance Grant
PSC	Passenger Safety Charge
PSP	Private Sector Participation
PTNG	Public Transport Network Grant
PTOG	Public Transport Operations Grant
RABS	Road Accident Benefit Scheme
RAF	Road Accident Fund
RFS	Road Freight Strategy
ROD	Record of Decision
ROS	Regulatory Outcomes Strategy
RPAS	Remotely Piloted Aircraft Systems
RSA	Republic of South Africa
RSR	Railway Safety Regulator
RTIA	Road Traffic Infringements Agency
RTMC	Road Traffic Management Corporation
RTRP	Revised Taxi Recapitalisation Programme

SAAF	South African Air Force
SAATM	Single African Air Transport Market
SABC	South African Broadcasting Corporation
SABOA	Southern African Bus Operations Association
SACAA	South Africa Civil Aviation Authority
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAMSA	South African Maritime Safety Authority
SANRAL	South African National Roads Agency Limited
SAPS	South African Police Services
SARAP	South African Road Assessment Program
SARPS	Standards and Recommended Practices
SARS	South African Revenue Service
SASAR	South African Search and Rescue Organisation
SCM	Supply Chain Management
SDIP	Service Delivery Improvement Plan
SEIAs	Socio Economic Impact Assessment System
SIDS	Standard Instrument Departures
SIP	Strategic Infrastructure Programme
SLA	Service Level Agreement
SMART	Specific, Measurable, Achievable, Realistic and Timely
SMME	Small, medium and micro enterprises
SMS	Senior Management Service
SmS	Safety Management System
SMSR	Safety Management System Report
SOC	State-Owned Company
SOEs	State-owned Enterprises
SONA	State of the Nation Address
SRAB	Starting Regulatory Asset Base
STARS	Standard Terminal Arrival Routes
STER	Single Transport Economic Regulator
TAT	Transport Appeals Tribunal
TETA	Transport Education and Training Authority
TFR	Transnet Freight Rail
TNPA	Transnet National Ports Authority
ToR	Terms of Reference
TRP	Taxi Recapitalisation Programme
TVET	Technical Vocational Educational and Training
UN	United Nations
USOAP	Universal Security Audit Programme
VSAT	Very Small Aperture Terminal
VTC	Vehicle Testing Centres
WEGO	Weighted Efficiency Gains from Operations
WHO	World Health Organisation

5. REPORT OF THE SELECT COMMITTEE ON TRANSPORT PUBLIC SERVICE AND ADMINISTRATION, PUBLIC WORKS AND INFRASTRUCTURE ON BUDGET VOTE 13: PUBLIC WORKS AND INFRASTRUCTURE, AND STRATEGIC PLANS AND ANNUAL PERFORMANCE PLANS 2020-21 OF THE DEPARTMENT OF TRANSPORT AND ENTITIES REPORTING TO THE MINISTER OF TRANSPORT, DATED 10 JUNE 2020

The Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure, having considered Budget Vote 13: Public Works and Infrastructure and the Strategic Plans and Annual Performance Plans of the Department of Public Works and Infrastructure and the entities reporting to the Minister of Transport, reports that it could not reach a decision on the Budget Vote.

The Select Committee on Transport, Public Service and Public Works and Infrastructure, having met on 13, 20 and 28 May 2020; and having deliberated on the Strategic Plans (SPs) for 2020-2025 and the Annual Performance Plans (APPs) of the Department of Public Works and Infrastructure (DPWI), the Property Management Trading Entity (PMTE), and the public works entities that reports to the Minister of Public Works, reports as follows:

1. Introduction

The Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure has the mandate to do oversight over the Minister of the Department of Public Works and Infrastructure as policy leader of the DPWI.

As policy leader, the Minister of Public Works and Infrastructure exercises oversight over the public works and infrastructure entities, namely the Council for the Built Environment (CBE), the Construction Industry Development Board (CIDB), Agrément South Africa (ASA), and the Independent Development Trust (IDT).

In order to do its oversight, the committee met with the Minister, Deputy Minister and the senior management teams of the DPWI, its Property Management and Trading Entity (PMTE), and boards of the public works and infrastructure entities. These took the form of virtual meetings that were jointly held with the Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure, on 13, 20 and 28 of May 2020. Although these meetings were held jointly, this report is made in the name of the Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure.

1.1. The mandate of the DPWI

The Constitution of the Republic of South Africa, 1996, and the Government Immovable Asset Management Act (No. 19 of 2007) (hereafter, GIAMA) outlines the mandate of the DPWI and describes it as the custodian and portfolio manager of government's immovable assets.

In the 2015/16 financial year the policy leader initiated a shift in the focus of the DPWI. The practical implementation of the department's mandate shifted to the PMTE. This shift allows the DPWI to focus on:

- policy formulation,
- the setting of standards for the management of immovable assets,
- maintaining intergovernmental relationships with user/client departments,
- managing the coordination, standardisation, and regulation relating to the provision of accommodation, and public employment programmes, and expert professional built environment services to user/client departments,
- importantly, DPWI and PMTE has an oversight role over the standards and regulation that the Minister of Public Works and Infrastructure makes as leader of the functions that Schedule 4 of the Constitution confers to national, provincial departments of public works and infrastructure, and municipalities that also play these implementation roles.

In doing oversight over the five-year Strategic Plan 2020/25, and the APPs for the current financial year, the committee had to initially deal with its alignment with the broad policy of government, the transformative trajectory of the Medium Term Strategic Framework (MTSF) 2019 to 2024, and the policy imperatives set out by the President in the State of the Nation Address (SoNA).

2. Alignment of the DPWI Strategic Outcomes with the policy priorities of the SoNA and the NDP

The President listed seven priorities aligned to the NDP namely:

1. Economic transformation and job creation;
2. Education, skills and health;
3. Consolidating the social wage through reliable and quality basic services;
4. Spatial integration, human settlements and local government;
5. Social cohesion and safe communities;
6. A capable, ethical and developmental state; and
7. A better Africa and World.

Within that broad policy framework, the Strategic Plan 2020/25 of the DPWI had to ensure that its outcomes and that of the entities reporting to the Minister were aligned to the seven broad policy priorities. This alignment ensures a direct focus of the work of the DPWI and public works entities over the next five years on organising itself as part of a capable, ethical and developmental state. This is a prerequisite for economic transformation and job creation and targeted infrastructure service delivery to ensure an improved life for all its citizens. The very first policy priority, that of economic transformation and job creation places a sharp focus on DPWI as a key department that works on Infrastructure-led Economic Growth.

In her foreword of the Strategic Plan 2020-2025, the Minister places emphasis on the Infrastructure Development Act, no 23 of 2014, that stresses the importance of facilitation and coordination of public infrastructure development. This is part of government's policy to promote the development goals stated in the NDP. Investment in infrastructure development lies at the core of this. With infrastructure added as a responsibility, the DPWI and its entities play an even more crucial role of facilitating and coordinating infrastructure development across the three levels of government.

The Minister further highlighted the rollout of the District Development Model in 44 districts across the country as an important infrastructure development investment over the next five years. The facilitation and coordination function lies within the Infrastructure Investment Office (IIO) in the Presidency that has the task "to structure the country's Infrastructure-led Economic Growth under a single point of entry where the overall National Infrastructure Plan for South Africa is defined and the pipeline of bankable projects are focused within a new methodology"[1].

The Medium Term Strategic Framework (MTSF) 2019-2024:

The MTSF sketches the transformative development trajectory that all government departments need to follow to implement targeted priorities that had been accepted as the broad policy of the country. These priorities became policy when the country adopted the National Development Plan (NDP) in 2012. This broad policy states the NDP Vision 2030 as the blueprint to dealing with the challenges of unemployment, poverty and inequality by 2030.

The Vision 2030 is conceptualised as standing on three policy pillars:

1. Achieving a more capable state;

2. Driving a strong and inclusive economy; and

3. Building and strengthening the capabilities of South Africans.

These pillars are underpinned by seven policy priorities:

Priority 1: A capable, ethical and developmental state

Priority 2: Economic transformation and job creation

Priority 3: Education, skills and health

Priority 4: Consolidating the social wage through reliable and quality basic services

[1] DPWI Strategic Plan 2020-2025

Priority 5: Spatial integration, human settlements and local government

Priority 6: Social cohesion and safe communities

Priority 7: A better Africa and world

Every government department should translate these priorities into programmes with clearly defined, specifically stated, simply understood, measurable, achievable, relevantly resourced, time-based outcomes with targets that are evaluated, and reviewed within each financial year over the five-year term (2020-2025). Such evaluation and review processes should take into account inter-departmental targets and outcomes to ensure that policy weaknesses that often exist in multi-level government systems are identified and dealt with through joined-up policy projects.

The MTSF 2019-2024 is a broad policy plan that "promotes alignment and coordination"[2] between the three levels of government. It facilitates "the full integration of all development planning instruments into an integrated framework"[3]. It works against "duplication, role, conflict and development contradictions"[4], towards "better coordination of implementation through the district based delivery model"[5].

The district based delivery model is an aspect that should be unpacked by the strategic plan that the DPWI developed for the five-year period that it states as 2020-2025.

This matter is dealt with in more detail in the sections below that deals with the outcomes and indicators that the department identified as tools of its evaluation and review processes.

3. Outcomes[6] that should be implemented through Programmes from 2020-2025

In its effort to translate the broad policy statements of the SONA and the MTSF 2019-2024 into

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[2] Department of Monitoring and Evaluation, MTSF 2019 – 2024, p. 24.

[3] Ibid.

[4] Ibid

[5] Ibid

[6] For oversight purposes, we stated these here as they appear in the DPWI Strategic Plan 2020-2025.

implementable programmes, in the foreword the Strategic Plan the Minister of the DPWI stated the following as predetermined outcomes linked to the MTSF:

Outcome 1 - A Resilient, Ethical and Capable DPWI: DPWI is being reorganised with the inclusion of various functions that come with its new infrastructure mandate. The aim is for DPWI to be streamlined and outcomes-based, focused on implementation. The goal is to reinvent DPWI to be Agile, Ethical, Compliant and Capable, where everyone wants to work, with improved efficiencies achieved through seamless automated processes and a robust support infrastructure to enable effective service delivery.

Outcome 2 - Integrated Planning and Co-ordination: The key deliverable for DPWI is the National Infrastructure Plan, as is required by the Infrastructure Development Act, No. 23 of 2014, which was transferred to the Minister of Public Works and Infrastructure by the President in terms of proclamation no 49 of 2019, 23 August 2019. The National Infrastructure Plan will foster integrated spatial planning and focused infrastructure implementation among organs of state by establishing a single view of service delivery.

Cognisance is also taken of the importance of other relevant legislation such as the Spatial Planning and Land Use Management Act, Act 16 of 2013 (SPLUMA), and the Government Immovable Asset Management Act, Act 19 of 2007 (GIAMA), which provide for the National Spatial Development Framework and a uniform framework for the management of immovable assets held by National and Provincial government. This Outcome also deals with DPWI's further task in planning and leading the programme for the refurbishment of city precincts in terms of spatial transformation, with Salvokop being the lead precinct; and the New Capital City Initiative. DPWI will further ensure that it focuses on incorporating the new District Delivery Model into all of its planning processes.

Outcome 3 - Sustainable Infrastructure Investment: One of the major concerns in the Country has been that the entire infrastructure lifecycle has not been addressed in the planning, financing and execution of projects and programmes. The lack of attention given to the strategy and needs of infrastructure on the one hand and the operations and maintenance components of the infrastructure lifecycle on the other hand, has come to the fore. This has unbalanced and in many cases halted the investment processes. The refocus is to be for the infrastructure capital budgets to have a 60% new 40% maintenance split.

Outcome 4 - Maintenance: The DPWI must move away from unscheduled, ad hoc maintenance. This has proven to be a model that opens the business of the department at regional office level, to malpractice and corrupt activities. The Department plans to move towards properly budgeted, timed, resourced, scheduled maintenance of all its properties. In the following five years, it plans to reorient maintenance to an 80:20 ratio of scheduled to unscheduled maintenance. Further, the National Infrastructure Plan will take the lead in rectifying this as well as ensuring that the Department's and its public entities' projects and programmes are restructured to address the entire lifecycle. Lastly, in order to ensure sustainability, the Department is embarking on a modular project for all public assets. The most important focus area in the sixth Administration, under Sustainable Infrastructure Investment is the establishment of the single point of entry for infrastructure delivery, management and investment. This process and mechanism will be headed up by the Minister in partnership with the Head of the Infrastructure and Investment Office in the Presidency.

Outcome 5 - Productive Assets: DPWI has major land and building assets that are not being adequately managed or utilised to their optimum. Assets are to be spatially known and managed in an economic and spatially just manner, for the benefit of the public good and in the furtherance of a transformed, sustainable built environment. DPWI's first priority is to finalise its asset register and establish a single repository for the Country. The DPWI asset register will form the basis for all planning; construction management; facilities maintenance; leasing; and infrastructure investment.

Outcome 6 - Optimised Job Opportunities: This Outcome focuses on the restructuring of the Expanded Public Works Programme (EPWP) to optimise the mainstreaming and upscaling the EPWP Programme in the delivery and coordination of all infrastructure projects across the country, thereby contributing towards poverty alleviation and the reduction of unemployment. The commitment is on creating 5 million employment opportunities in the sixth Administration. I would also like the Department to focus on women, the youth and persons with disabilities.

Outcome 7 -Transformed Built Environment: Flowing from the Integrated Planning Outcome, is the achievement of spatial justice through the strategic use of DPWI public land and building assets to effect spatial transformation. The deployment and use of public assets can be the catalysts for facilitating transformation of the professional built environment and achieving social cohesion and integration. We are to take our lead from the NDP and National Spatial Development Framework, which direct DPWI in its infrastructure planning and asset management.

Additionally, the DPWI will focus on regulation and legislative processes to contribute to a transformed professional built environment. Professional services within the built environment need a re-look with the intention address skills required within the various sectors and address skewed patterns of professional representations in the built environment professional councils.

Outcome 8 - Dignified Client Experience: The Department needs to be viewed as the expert in the delivery of the services to the client department. In addressing the needs, however, DPWI should take into account three different client sectors namely the client department, the user client and the recipient client. Each have different needs and DPWI will shape the service delivery accordingly and ensure best practice for each of the client sectors to positively change the delivery of public services in a dignified manner that focuses on time, quality, quantity, technology, value for money and relevance. In the same vain, the way in which the financial resources are directed to achieve this delivery, should be changed to be direct to DPWI from National Treasury per annum, rather than via the Client Departments.

The department shows awareness in its Strategic Plan for 2020-2025 that its "poor track record to deliver construction and maintenance projects on time and within budget, many client departments do not have trust in the DPWI and its entities". The period 2020 to 2025 is one during which this department has to win back the trust of government and the larger construction and professional built environment sector.[7]

4. The budget allocation for 2020/2021 and over the medium term[8]

R million	2019/20	2021/2020	2021/22	2022/23		Real Rand Change	Nominal % Change	Real % Change

[7] DPWI Strategic Plan 2020-2025, p 11.

[8] The medium term shows increases from year 1 (2020/2021 to year 3 (2021/23) of the five year term (2020-2025), with the nominal and real changes to allocations per programme. All amounts shown as in the Estimates of National Expenditure (ENE), National Treasury, 2020, Budget Vote 13, 2020-2021, p.181.

					Nominal Rand Change			
Programmes					**2019/20 to 2020/21**		**2019/20 to 2020/21**	
1. Administration	511.0	538.9	591.0	615.6	27.9	5.2	5.46	1.02
2. Intergovernmental Coordination	56.4	63.7	70.4	69.8	7.3	4.6	12.94	8.18
3. Expanded Public Works Programme	2680.8	2717.5	3104.7	3228.3	36.7	-77.8	1.37	2.90
4. Programme Property and Construction Industry Policy and Research	4598.9	4647.8	4873.0	5054.8	48.9	-147.0.	1.06	3.20
5. Prestige Policy	119.0	103.0	118.2	121.2	-16.9	-21.2	-14.10	-17.72
Total Expenditure	**7967.0**	**8070.9**	**8757.3**	**9087.7**	**103.9**	**-236.3**	**1.30%**	**-2.97%**

The Department receives an allocation of R8.07 billion for 2020/21 with which to accomplish the policy priorities listed in the strategic and annual performance plans. This is an increase of 1.3 per cent in nominal terms, and a decline 2.97 per cent in real terms (calculating the impact of inflation) from the 2019/20 adjusted appropriation of R7.97 billion. The Department's budget represents approximately 0.1 per cent of the national appropriation by vote, excluding direct charges.

In terms of *economic classification*, the departmental budget includes Transfers and Subsidies totalling 86.7 per cent of the budget, with a total monetary value of R6.99 billion (compared to R6.93 billion in the previous year). This constitutes a 0.9 per cent nominal increase, but a decline 3.4 per cent in real terms since the growth in the allocation is below the projected average inflation rate of 4.4 per cent for 2020/21.

Transfers and Subsidies totalling R1.58 billion is in the form of *conditional grants to Provinces and Municipalities*, while a total of R4.54 billion is allocated to departmental agencies and accounts. For 2020/21, *Current Payments amount* to 13.1 per cent (i.e. R1.05 billion) and *Capital Payments* to 0.2 per cent of the budget (i.e. R20.2 million).

Compensation of Employees increases by R36.9 million (from R557.8 million in the 2019/20 adjusted period) to R594.7 million in 2020/21. This is an above inflation (real) increase of 2.1 per cent from the previous year.

Goods and Services increases by R7.8 million (from R450.0 million in the 2019/20 adjusted period) to R459.8 million, of which the following line items are sub-categorised in the table that follows:

Goods and Services R million	Budget 2019/20	Budget 2020/21	Nominal Increase/ Decrease in 2020/21	Real Increase/ Decrease in 2020/21	Nominal Percent change in 2020/21 %	Real Percent change in 2020/21%
Administration Fees	48.6	50.5	1.9	- 0.2	3.91 per cent	-0.47 per cent
Computer Services	38.3	36.9	- 1.4	- 3.0	-3.66 per cent	-7.72 per cent
Contractors	42.3	33.8	- 8.5	- 9.9	-20.09 per cent	-23.46 per cent
Agency Support/ Outsourced Services	65.8	85.1	19.3	15.7	29.33 per cent	23.88 per cent
Operating Leases	33.6	39.1	5.5	3.9	16.37 per cent	11.46 per cent
Travel and Subsistence	50.8	48.3	- 2.5	- 4.5	-4.92 per cent	-8.93 per cent
Interest and Rent on Land	0.0	0.0	0.0	0.0	N/A	N/A

Revenue generated

The Department generates revenue through the PMTE, by letting properties and official quarters, and the sale of land and buildings. It is projected that the Department will collect revenue to the total value of R1.52 million for 2020/21.[9] This is a decline of R13.1 million from the R14.6 million in 2019/20.

The Department sub-categorises the sale of Goods and Services it produces according to Sales Generated through market establishments and Other Sales.

- R280 000 is expected to be generated through the Sale of Goods and Services produced by the Department, of which:
  - R120 000 Market establishment (covered and open rental parking)
  - R160 000 Other Sales: Tender documents.

The Department generates revenue as follows:

- R40 000 Sales: Waste.

- R600 000 Interest, dividends and rent on land.
- R600 000 Transactions in financial assets and liabilities.[10]

4.1. Budgetary allocations per programme

Programme 1: Administration

Programme 1 provides strategic leadership, management and support services to the Department.

This programme plays an important role in giving effect to first priority of the National Development Plan (NDP) and Vision 30; that is, to *build a capable, ethical and developmental state.* This priority is also expressed in the Medium Term Strategic Framework (MTSF) for the five-year term 2019-2024, as a crucial mode that is required to achieve Vision 2030.

The DPWI translated priority one of the NDP and Vision 2030 into a predetermined outcome that states the policy intent to reorganise the DPWI into a **resilient, ethical and capable department**. The department started this process during the fourth parliament that continued in the previous five-year term, as part of a Turnaround Programme in the 2011/2012 financial year. During this first phase of the programme, the DPWI identified the need to remain consistently compliant with financial legislation and National Treasury regulations so that it could improve its operations and audit outcomes. Even more important, it wanted to illiminate corruption and malpractice in its ranks. Within Programme 1, it established a *Governance, Risk and Compliance unit* that continues to assist with investigations with the Special Investigations Unit (SIU) into alleged malpractice and corruption.

The DPWI is in the initial stages of including various functions that come with its new infrastructure mandate. Accordingly some finds that were allocated as above to the various sub-programmes of Programme 1, will be used to achieve the aim to organise it into a "streamlined and outcomes-based"[9] department that is "focused on implementation"[10]. The Strategic Plan of the Department therefore states that it wants to be agile, ethical, compliant and capable, "where everyone wants to work, with improved efficiencies achieved through seamless automated processes and a robust support infrastructure to enable effective service delivery."[11]

Sub-programmes:

The Administration programme receives a total allocation of R538.9 million that is allocated to sub-programmes as follows:

- *Ministry* receives R44.7 million;
- *Management* receives R114.1 million;
- *Corporate Services* receives R271.7 million;
- *Supply Chain Management (SCM)* receives R57.7 million; and
- *Office Accommodation* receives R50.7 million.

NOTE: SCM, Corporate Services, Management, and Office accommodation are shared services that funds the functions of the DPWI and the Property Management and Trading Entity (PMTE).

In terms of economic classification, the budget includes Current Payments to the value of R531.4 million, (R316.4 million must be spent on Compensation of Employees). Compensation of Employees under Programme 1 increases by R21.3 million or 7.2 per cent in nominal terms and 2.7 per cent in real terms in 2020/21.

The Department allocates R215.0 million to Goods and Services. This is an increase of R8.6 million (or 4.2 per cent in nominal terms), but a decrease of 0.22 per cent in real terms from the R206.4 million in 2019/20. Expenditure trends for Goods and Services (in real terms) for 2020/21

[9] DPWI Strategic Plan 2020-2025, p. 9

[10] Ibid.

[11] Ibid.

is shown in the following table[12]:

Programme 1: Good and services R million	Budget		Nominal Increase/ Decrease in 2020/21	Real Increase/ Decrease in 2020/21	Nominal Percent change in 2020/21	Real Percent change in 2020/21
	2019/20	2020/21				
Communication	11.9	19.9	8.0	7.2	67.23 per cent	60.18 per cent
Computer Services	38.2	36.9	- 1.3	- 2.9	-3.40 per cent	-7.47 per cent
Consultants: Business and Advisory Services	18.2	20.4	2.2	1.3	12.09 per cent	7.36 per cent
Operating Leases	30.2	35.2	5.0	3.5	16.56 per cent	11.64 per cent
Property Payments	18.5	21.6	3.1	2.2	16.76 per cent	11.84 per cent
Travel and Subsistence	20.0	19.6	- 0.4	- 1.2	-2.00 per cent	-6.13 per cent

Programme 2: Intergovernmental Coordination

DPW is a coordinating department that must manage sound relations and strategic partnership with all client/user departments if it is to reach policy goals set out in the SoNA and the NDP. Programme 2 seeks to promote sound intergovernmental relations and strategic partnerships. It coordinates with provinces and municipalities on Immovable Asset Registers; construction and property management; the implementation of the Government Immovable Asset Management Act (No. 19 of 2007); and the reporting on performance information within the Public Works Sector.

Sub-programmes

Expenditure for Programme 2 for the 2019/20 financial year will fund these sub-programmes:

- *Monitoring, Evaluation and Reporting* receives an allocation of R5.4 million. This is a decrease of R300 000 from the R5.7 million received in 2019/20.
- *Intergovernmental Relations and Coordination* receives an allocation of R27.1 million. This is an increase of the R1.9 million from the R25.2 million received in 2019/20.
- *Professional Services* is allocated R31.2 million. This is an increase of R3.7 million from the R27.5 million received in 2018/19.

In terms of economic classification, R57.4 million is allocated to Current payments. This constitutes an increase of R7.2 million or 14.3 per cent in nominal terms (9.5 per cent in real terms) from the previous year.[19] R42.3 million (an increase of R6.2 million) goes to Compensation of Employees, and R15.1 million (an increase of R900 000 from R14.2 million in 2019/20) to Goods and Services.

The Professional Services Branch (PSB) of Programme 2 is focused on the predetermined objectives to "build a capable State" and "placing the economy on the path to recovery". Note that it states its functions as oversight, coordination, and providing guidance and advice on successful capacity building programmes/initiatives towards contribution of transformation objectives in the built environment. The PSB will coordinate and manage supply of built environment skills to support the State infrastructure delivery.[20]

Programme 3: Expanded Public Works Programme (EPWP):

The EPWP gives effect to the policy goals to create work opportunities for marginal people. It works on the coordination of the implementation of the Expanded Public Works Programme (EPWP) in public bodies, non-profit organisations, the non-state sector, across national, provincial and local government levels to create work opportunities; it also works on the provision of training for unskilled, marginalised and unemployed people in South Africa.

The medium term goals for EPWP are to:

- Monitor, validate, set uniform processes and standards, and report on 4.4 million work opportunities to be created by Public Bodies implementing the EPWP.
- Ensure Public Bodies report on the designated groups (with targets of 55 percent for women and youth respectively, and 2 percent for people with disabilities) in the programme, by producing six Data Quality Assessment Reports.
- Contract 350 non-profit organisations to implement non-State sector EPWP projects over the medium term.

A number of objectives are outlined in the DPWI's planning documents; these include the EPWP as responsible for the implementation of priority 2 of the NDP, that of economic transformation and job[12] creation. In its Strategic Plan and APP, the DPWI translated that broad policy priority as its own Outcome 6, which is stated as "Optimised Job Opportunities". Chapter 3 of the NDP highlights the EPWP as a programme that must be upscaled as part of Vision 2030. Chapter 11 of the NDP locates the EPWP as a key contributor towards social protection through income transfer into poor households. The NDP emphasises: "The provision of Work opportunities (WOs) is one of the best forms of social protection". This is in line with the EPWP's current primary objective of providing work opportunities. The programme also contributes towards the priority of the Sixth Administration of Economic Transformation and Job Creation.

The allocated funds will be used "to optimise the mainstreaming and upscaling the EPWP Programme in the delivery and coordination of all infrastructure projects across the country, thereby contributing towards poverty alleviation and the reduction of unemployment."[13] The ultimate outcome is stated as creating 6 million work opportunities by the end of the MTSF.

- Public Bodies report 1 455 000 work opportunities on the EPWP Reporting System.
- Provide technical support to 290 public bodies participating in the EPWP.

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[12] Note that throughout the DPWI and government planning documents regarding this programme, the words *jobs*, *work*, and *employment* are used interchangeably, each as a descriptor for opportunities. The EPWP programme therefore does not create employment, work, or jobs, but opportunities for those.

[13] DPWI, Strategic Plan 2020-2025, pp. 9-11.

R2.71.7 billion allocated for this year that increased from the amount allocated in 2019/20 that was R2.68 billion. The allocations from this programme takes place through the *Integrated Grant for Provinces, Municipalities,* and the *Performance Based Incentive Allocations*. The allocations are reported under these sub-programmes:

- EPWP: Monitoring and Evaluation receives R61.0 million. In real terms this sub-programme allocation decreases by 2.5 per cent from the previous year.
- EPWP: Infrastructure receives R1.28 billion. In real terms, this sub-programme allocation
- decreases by 4.1 per cent from the previous year.
- EPWP: Operations receives R1.28 billion. In real terms, this sub-programme allocation decreases by 2.8 per cent from the previous year.
- EPWP: Partnership Support receives R89.0 million. This sub-programme allocation increases by 17.7 per cent in nominal terms and 12.8 per cent in real terms in the from the previous financial year.
- EPWP: Public Employment Coordinating Committee receives R8.0 million. In real terms, this sub-programme allocation increases by 16.1 per cent from the previous year.

In terms of economic_classification, the budgetary allocation for Programme 3 includes *current payments* to the value of R355.1 million, of which R187.2 million is allocated to *compensation of employees,* which increased by R12,3 million from the allocated amount of R174.9 million in 2019/20, which translates into a real increase of 3.9 per cent from the previous year. This increase is explained as part of the enhancement of the implementation of Phase IV of the EPWP from April 2019, to provide technical support to departments, municipalities, and the non-State sector to ensure that labour intensive methods and skills training are being utilised in their programmes.

Expenditure on *Goods and Services* amounts to R168 million, from R155 million. Expenditure on *Compensation of employees* amounts to R187 million from R175 million.

The bulk of the allocated funds for Programme 3 are transfers and subsidies amounting to R2.36 billion.

R1.58 billion of this amount will be transferred to *provinces and municipalities* as follows:[14]

- R778.5 million is allocated to *Non-profit institutions*.
- R748.0 million towards the *Integrated Grant for Municipalities*.
- R420.8 million towards the *Integrated Grant for Provinces*.
- R413.6 million towards the *Social Sector Incentive Grant to Provinces*.

Programme 4: Property and Construction Industry Policy and Research[15]

Programme 4 promotes the growth and transformation of the construction and property industries, as well as a standardised approach and best practice in construction and immovable asset management in the public sector.

The programme transfers a large portion of the R4.65 billion across eight sub-programmes[16]. Of this total allocation, the *Property Management Trading Entity* (PMTE) receives the bulk totalling R4.36 billion. This budget allocation is dealt with in detail with a focus on the PMTE as the implementation agency of the DPWI later in this report. The rest of its funding are transferred to public works entities that report to the Minister.

Programme 4 has the specific task to research and develop[17] policies and legislative prescripts for the construction and property sectors. This is strongly tied to the implementation work that the PMTE performs to concretise the policies that are stated in the NDP, MTSF, SONA, and the five-year Strategic Plan 2020-2025. In addition, every performance indicator and predetermined

[14] 2020, National Treasury, p. 190

[15] This programme was known as Property and Construction Industry Policy Regulation that promoted the growth and transformation of the construction and property industries, and uniformity and best practice in construction, and immovable asset management in the public sector.

[16] Up until 2009/10 the two programmes: Construction Industry Development Programme and the Property Industry Development Programme) fell under Programme 3, but have since been renamed as of the 2014/15 financial.

[17] National Treasury (2020), p. 191.

outcome stated in each APP from 2020 to 2025 can only be properly implemented if this programme effectively use the allocated amounts stated in the budget. In the Budgetary Review and Recommendations, Budget Vote, and Legacy Reports during the five-year term 2014/15 to 2019/20, this committee highlighted that this programme was unsuccessful in reviewing the white papers dated 1997 and 1999. In those reports we stated that this left a vacuum within which the PMTE and DPW (this was prior to the Infrastructure component was added to the Department's mandate) and entities, specifically the social infrastructure delivery entity, namely the IDT, struggled to function and exercise its property management, project management, property maintenance, and leasing functions. To be more specific, the on-going challenge of the PMTE and the IDT to collect service fees from client departments after construction projects were completed, was in part because the mandate of the Department as landlord of the state, and construction regulator, was never properly legislated which meant it could not enforce contractual obligations and struggled to collect outstanding debt.

While a comparably small amount of the total budget of Programme 4 is allocated to this policy development and coordination role, it plays a core function to strengthen the mandate of the DPWI and the transformation of respectively the professional built environment, and the construction industry. The budgetary allocation to the actual policy task of programme 4 consists of the sub-programmes *Construction Policy Development Programme* that receives R 48.7 million, and *Property Policy Development Programme* R 15.2 million. The other two sub-programmes are *Assistance to the Preservation of National Memorials* that receives R R28.2 million and *Infrastructure Development Coordination.* This programme can be severely criticised for not utilising the budgetary allocations for this function effectively and efficiently.

Once the review work is completed in the current financial year, the programme has to complete three legislative prescripts for the Public Works Bill, the Construction Industry Development Board Act (No. 38 of 2000) and the Council for the Built Environment Act (No. 43 of 2000) and the Council for the Built Environment Act (2000).

As mentioned above, other transfers from programme 4 is to Departmental Agencies and Accounts (non-business entities) that totals R4.5 billion. The funds are transferred to the following entities:

- *Construction Industry Development Board* (CIDB) is allocated R78.7 up by R2.5 million from the 76.2 million allocated in the previous year.

- *Council for the Built Environment* (CBE) receives an allocation of R55.2 up by R 2.4 million from the R52.8 million allocated in the previous year.
- *Construction, Education and Training Authority* (CETA) receives the same allocation of R600 000 as in the previous year.
- The PMTE (as noted above) receives an allocation of R4.36 billion.

The Department did not make a transfer to the Independent Development Trust (IDT) that received an allocation of R5 million in the previous financial year.[18] The IDT is a Schedule 2 entity, should be self-sustaining, and therefore should not receive any funding from the Department. The allocation in the previous years from the Department should be viewed as assisting in the continued operational functioning of the entity. This funding allocation was criticised by this committee in previous years, but was explained as necessary by the Executive Authority in the context of the IDT having developed into a responsive development agency with a well-established presence across the country.

Other transfers were made to:

Foreign Governments and International Organisations,[19] to the value of R28.2 million up by R 3.6 million from 24.6 million in the previous year. This is mainly to address the fluctuations in the exchange rate when transferring the funds. The current weakening of the Rand against the major foreign currencies may result in the Department requiring an increase in its allocation from National Treasury.

- Industrial Development Corporation receives R 60.8 million, up by R800 000 from the previous financial year.

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[18] National Treasury (2019), p. 224.

[19] National Treasury (2020), p. 192. This payment is made to the Commonwealth War Graves Commission of which South Africa is a member. It is comprised of six member countries: Australia; Canada; India; New Zealand; South Africa and the United Kingdom.

Current Payments totals R 30.7 million that decreased by R 1.7 million from R32.4 million allocated in the previous year. Compensation of Employees receives an allocation of R 16.5 million that decreased by R 2.5 million from R19 million allocated in the previous year. Goods and Services totals R 14.2 which is an increase from the R 13.5 million allocated in 2019/20 in the adjusted budgetary figures.

Programme 5: Prestige Policy [20]

Programme 5 seeks to provide norms and standards for the Prestige Accommodation Portfolio and meeting the protocol responsibilities

The 2019/20 targets include the improvement of service delivery services to Prestige Clients over the medium terms:[21]

- Develop and monitor four Prestige Policies.
- Support 24 planned State events with movable structures.
- Provide movable assets to Prestige clients within 60 working days.
- Approve two Prestige Policies.

The budget allocated to Programme 5 is R 103 million that decreased by R 12.4 million from the R 115.4 million that was allocated in 2019/20.

A large portion of the budget is allocated to current payments, which amount to R79.9 million that is a decrease of R 16 million from the allocation of R 95.9 million in 2019/20. A total of R32.4

[20] This programme was known as Auxiliary and Associated Services in previous years. It used to fund various services, including compensation for losses on the Government-assisted housing scheme; assistance to organisations for the preservation of national memorials; and meeting protocol responsibilities for State functions. Currently, it focuses on meeting protocol responsibilities for State functions with an additional function to provide norms and standards for the Prestige Accommodation Portfolio.

[21] National Treasury (2020), p. 192.

million is allocated to compensation of employees. The transfer budget includes an allocation of R11.2 to Departmental Agencies and Accounts (Parliamentary Villages Management Board); R200 000 to Households and R11.6 million to Payment for Capital Assets (Machinery and Equipment).

4.2. The Property Management Trading Entity (PMTE)

The PMTE was operationalised in the 2015/16 financial year, and the Department transferred certain property management functions, (including the related assets, liabilities and staff), to the PMTE to align the expenses and revenue to the underlying assets."[22]

The DPW describes the purpose and functions of the PMTE as a government component that has been created "… to manage properties under the custodianship of the Department.

As mentioned in the introduction, the operationalisation of the PMTE in 2015 shifted the operational or implementation focus from the DPWI to the PMTE. Its focus is to execute all property management related functions for national government. The PMTE thus implements all public works related functions such as the maintenance of properties, the leasing, and the payments of property rates on behalf of client departments of the DPWI. All accommodation-related costs were devolved to client departments when the PMTE was operationalised. This means that the department issues invoices and collect user charges from clients on a quarterly basis. This function requires legislation that enforces client departments to pay user-charges, project management, professional property management, and construction costs to the PMTE. This legislation is unfortunately not yet in place and requires Programme 4 to complete the review of the White Papers as the precursor to the draft Public Works Bill that would give enforcement powers to collect such fees and charges.

In addition to collecting user-charges, and providing specialist property and construction management services to government departments, the PMTE is correctly placed to unlock the value of the large property portfolio of government that is contained in the immovable asset register (IAR). The full operationalisation of the PMTE should lead to full cost recovery through

[22] Department of Public Works (2016), p. 325.

the application of business principles in the management of government's property portfolio. Together with the collection of user-charges, the PMTE should generate funds with which government could undertake maintenance as well as other crucial tasks in the public works sector. This remains a challenge that the DPW and PMTE is working to put into action in the medium to long term.

In its meetings with the PMTE during the 2014/15-2019/20 MTSF period, this committee found that it did not work efficiently. The entity as it struggled to attract and retain relevantly qualified and experienced property specialists in its Real Estate and Investment Services branch that should play a key role in unlocking the value of government immovable property. During oversight visits in 2015 to 2019 administrative term, this Portfolio Committee requested the User, and Custodian Immovable Asset Maintenance Plans (UIAMPs and CIAMPS) of properties that accommodated client departments such as Correctional Services, and the SA Police Service. Unfortunately, these documents could not be produced. The Government Immovable Asset Act (GIAMA) stipulates that for each building, these UIAMPs and CIAMPs were tools with which to keep track of the conditions of properties, and the different duties that the custodian and the user had to play. This is crucial if the PMTE is to concretise its stated vision of providing "Convenient access to dignified public services." The South African public must feel secure and safe while they access services. In addition, the public administration that work inside government properties also need to be secure and well catered for in terms of work conditions.

The PMTE Registry Services branch that should manage the Immovable Asset Register (IAR) and coordinate UIAMPs and CIAMPs also struggle to attract and retain qualified and experienced property specialists. DPW[23] indicated to the committee over the last five-year term, that some of the vacancies required by the PMTE included property economists, property managers, specialist chartered accountants, property lawyers, and property valuators. The DPW consistently reported that these positions were being filled, yet the vacancy rate remains high from one financial year to the next. *Because these specialist skills make it a very competitive terrain so that properly qualified and experienced personnel easily move from the PMTE to private property companies, the PMTE and the DPWI will have to undertake a property specialist retention strategy.* The challenge is to

[23] The DPWI was referred to as the DPW during the fifth administration and parliamentary session.

fill and keep such personnel in positions in the PMTE. Failure to do this means that the DPW and PMTE continue to operate at a disadvantage.

The Real Estate Investment Services (REIS), of the PMTE focuses on achieving an efficient and competitive Real Estate Portfolio for the State. It states that it does this through effective planning, analysis and informed investments. Four years since the PMTE has been operationalised, the programme continues to struggle to have an authoritative grasp of the value that is contained in the IAR and struggles to invest the property portfolio in manners that benefit the state and its beneficiaries. It has thus far not been able to implement strategies with which to unlock the value of government's immovable asset portfolio. The current five-year strategic plan and this year's performance plan also do not show evidence of a focused strategy to progress in that direction. The assessment, verification, and progressive completion of the state property portfolio remains in progress. The committee is not unreasonable in this regard; it understands that by its very nature, the IAR will not be absolutely completed as older buildings may be removed when sold, while newly constructed and procured properties may be added on an annual basis. It is, however, fair to expect the IAR to be in a much better state with the Real Estate Registry branch having a measured control over all immovable assets and the condition, value, and debt associated with each. The information contained in the IAR is the foundation that the REIS branch requires to unlock the value of government property. A reasonably completed IAR means that the value of government property is regularly updated in compliance with the Generally Recognised Accounting Practice (GRAP) requirement, which enables the REIS to perform its function.

4.3. The PMTE Budget[24]:

R million	**Revised Estimate for 2019/20**	**Allocated budget for 2020/2021**	**Estimated allocations for the medium term**	
Programme			**2022/23**	**2023/24**
1. Administration	819.2	812.6	833.9	861.6
2. Real Estate and Investment Services	209.8	218.1	229.5	240.9
3. Construction Management Services	464.6	489.3	512.5	537.6

[24] All amounts in the following tables as provided in the Estimates of National Expenditure (ENE) for the Department of Public Works and Infrastructure, Budget Vote 13, National Treasury, 2020, p. 193.

4. Real Estate Management Services	11 407.2	13.388.0	14 552.9	15 808.0
5. Property Registry Services	122.8	116.2	69.8	73.4
6. Facilities Management Services	3 689.0	40002.0	4 112.9	4 314.3
Total	**16 712.7**	**19026.4**	**20 311.6**	**21 835.8**

The PMTE receives an allocation of R 19 billion for the 2020/21 financial year, which is an increase of R 2.3 billion from the allocated amount of R 16.7 billion for 2019/20.

Over the next five-years, the PMTE will amongst other outcomes develop precincts to support efficient and integrated government planning by grouping departments that provide similar services to make service delivery more efficient. These were reported to the Committee in the previous MTEF. During the sixth administration, the Committee will focus several oversight activities on the development and maintenance of these precincts to keep a check on the efficient application of the allocated funds.

The Committee will further work with the PMTE to ensure that it moves away from the current emergency-based ad hoc mode of refurbishing and maintaining towards a scheduled maintenance model of government buildings. To do this, may mean a different approach to budgetary allocations with the properly estimated maintenance cost per building in its portfolio budgeted for ahead of time in each medium term expenditure framework period.

The PMTE also has a predetermined outcome of developing 12 small fishing harbours in rural areas on which R61.2 billion is budget for over the MTEF period, increasing at an average annual rate of 9.3 per cent. This is based on projections that there will be an increase in services provided to client departments, from R16.7 billion in 2019/20 to R21.8 billion in 2022/23. An estimated 80.4 per cent (R49.5 billion) of the entity's total budget is allocated to goods and services, mainly for repairs and maintenance of state-owned buildings, and lease payments.

The Committee signals that the PMTE has to ensure a financial administration, accounting, and reporting system that can also perform the function of debt recovery. In this Committee's Budgetary Review and Recommendation Report of 2019/20, the PMTE's overdraft stood at R 2.6 billion and its liabilities exceeded assets by R 10.8 billion, as it had been unable to recover funds utilised for service provided to client departments.

A key component of the entity's funds will be channelled towards improving access for people with disabilities. As such, the entity intends to complete 58 accessibility infrastructure projects over the medium term. These include the construction of new office buildings for 24 departments; and 77 refurbishment projects, including at correctional centres, police stations, courts, office buildings and prisons. The execution of these projects is projected to cost R7.4 billion over the MTEF period. A further R4.5 billion has been allocated over the medium term for ad hoc building maintenance. As stated earlier, this ad hoc mode of maintenance will have to addressed as part of a new budgeting model as it often leads to malpractice and corrupt activities with service providers at regional offices of the DPWI.

The next section sets out the funds allocated per programme, and targets that should be achieved. Note that all figures are as contained in the PMTE APP for 2020/21.

Programme 1, Administration:

This programme provides strategic management, governance and administrative support to the PMTE.

The total allocation for Programme 1 equals R812.6 million for the 2020/21 financial year, which is a decrease of R6.6 million. This constitutes a nominal decrease of 0.8 per cent (or 4.9 per cent in real terms) from the revised appropriation of R819.2 million in 2019/20.

Programme 1 reports on one target for 2020/21: which is to ensure 100 per cent expenditure of its allocated budget.

Programme 2, Real Estate Investment Services (REIS):

This programme works to achieve an efficient and competitive Real Estate Portfolio for the State through effective planning, analysis and informed investments.

The total allocation for Programme 2 equals R218.1 million for the 2020/21 financial year, which is an increase of R8.3 million. This constitutes a nominal increase of 3.96 per cent (and a decrease of 0.4 per cent in real terms) from the revised appropriation of R209.8 million in 2019/20.

The following targets are have been set for the 2020/21 financial year:[25]

- Establish four sites for the development of government precincts as service delivery centres.
- Complete 90 per cent valuations within scheduled timeframes.
- 800 facilities assessed in terms of identified performance areas.
- Release 34 995 hectares from the Department's portfolio for development of infrastructure and socio-economic objectives.
- Approve one Custodian Immovable Asset Management Plan (CIAMP) submitted to National Treasury.

Programme 3, Construction Project Management (CPM):

This programme focuses on providing effective and efficient delivery of accommodation needs for the Department of Public Works and User Departments through construction and other infrastructure improvement programmes.

The total allocation for Programme 3 equals R489.3 million for the 2020/21 financial year, which is an increase of R24.7 million. This constitutes a nominal increase of 5.3 per cent (or 0.9 per cent in real terms) from the revised appropriation of R464.6 million in 2019/20.

The following targets are reported for the 2020/21 financial year:[26]

- Complete one design solution for identified User Department.
- Complete 115 infrastructure projects within agreed construction period.
- Complete 115 infrastructure projects within agreed budget.
- Hand over 125 infrastructure sites for construction.
- Complete 130 infrastructure projects.
- Create 9 020 EPWP work opportunities through construction projects.
- Reduce infrastructure backlogs by 40 per cent.

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[25] National Treasury (2019), p. 227.

[26] National Treasury (2019), p. 227.

Programme 4, Real Estate Management Services (REMS):

This programme provides and manages government's real estate portfolio in support of stated social, economic, and political objectives that we stated in the first section of this report.

The total allocation for Programme 4 equals R13.39 billion for the 2020/21 financial year, which is an increase of R1.98 billion. This constitutes a nominal increase of 17.4 per cent (or 12.4 per cent in real terms) from the revised appropriation of R11.41 billion in 2019/20.

The following targets have been set for this financial year (2020/21):

- Reduce private leases within the Security Cluster by 13.
- Realise R 20 million saving on identified function specific private leases.
- Increase revenue generation by 15 per cent through the letting of State-owned properties (excluding harbour-related properties).
- Let out 70 un-utilised vacant State-owned properties.
- Award 25 per cent of new leases to Black-owned companies (e.g. empowering designated groups of women, youth and people with disabilities).
- Procure 100 per cent of new private leases contracts with maintenance plan.
- Create 15 Business Opportunities that create actual jobs.
- Increase revenue by 20 per cent through the rentals of State-owned small harbours.

Programme 5, Real Estate Information and Registry Services (REIRS):

The programme develops and manages a complete, accurate and compliant Immovable Asset Register (IAR) to meet service delivery objectives for the State, Department and PMTE business requirements.

The total allocation for Programme 5 equals R116.2 million for the 2020/21 financial year, which is a decrease of R6.6 million. This constitutes a nominal decrease of 5.4 per cent (or 9.4 per cent in real terms) from the adjusted appropriation of R122.8 million in 2019/20.

The following target is reported for the 2020/21 financial year:[27]

- Assess nine Provincial Immovable Asset Registers for compliance.
- Physically verify to validate the existence and assess the condition of 29 564 immovable assets.
- Vesting (confirmation of ownership) of 1 000 land parcels.

Programme 6, Facilities Management:

This programme seeks to ensure that immovable assets used by Government Departments and the public, are optimally utilised and maintained in a safe, secure healthy and ergonomic environment while contributing to job creation, skills development and poverty alleviation.

The total allocation for Programme 6 equals R4 billion for the 2020/21 financial year, which is an increase of R313.0 million. This is an increase of 8.5 per cent in nominal terms (or 3.9 per cent in real terms) from the revised appropriation of R3.69 billion in 2019/20.

The following target is reported for the 2020/21 financial year:[28]

- 200 Condition assessments conducted on identified/prioritised properties.
- Assess critical components to determine the condition of 200 components (lifts and boilers).
- Assess critical components to determine the conditions of 20 per cent of components (Heating, Ventilation and Air-Conditioning (HVAC) and Gensets[29] and water systems).
- A 10 per cent change in level of reactive maintenance.
- 550 facilities prioritised with maintenance contracts in place.

[27] National Treasury (2019), p. 227.

[28] National Treasury (2019), p. 227.

[29] These are equipment that convert naturally available energy into electrical energy in places where there is no bulk electrical supply.

5. Matters that emerged from the deliberations between the committees[30] and the DPWI and PMTE:

Having deliberated on the Strategic Plan 2020-2025, and the Annual Performance Plan (APP) 2020-2021, the Committees noted that:

- The DPWI Strategic Plan and APP shows an integral link between the broad policy objectives of the National Development Plan and the Medium Term Strategic Framework of government, and the tasks outlined by the President in the State of the Nation Address.
- The committees appreciated that the department undertook a substantial amount of strategic and analytic work to identify problems that may weaken the predetermined objectives, and identified possible ways to deal with these problems as implementable solutions.
- The committees further appreciated the effort that the DPWI and the PMTE made to strengthen the logical flow between the Strategic Plan, and each APP over the next five years by showing how outcome indicators and enablers will assist to reach policy objectives.
- The department was urged to keep the committees informed of the budgetary adjustments to ensure that funds that were used to deal with the Covid-19 crisis as regulated by the national Executive and the NCCC, is replenished.

The Office of the Minister as Executive Authority was urged to:

1. Further, strengthen these efforts by the department through the maintenance of a schedule of oversight over the in-year reports that the DG as Accounting Officer must make on a monthly and quarterly basis to the Minister and National Treasury.

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[30] These emerged from deliberations in the Joint Meeting of the Portfolio Committee on Public Works and Infrastructure and Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure.

2. Urgently inform the committees of her plan to ensure that government has a social infrastructure development agency in place to continue the delivery legacy of the Independent Development Trust (IDT). Further to ensure that the capacitated personnel of the IDT is not lost, but find their rightful public service positions with the new agency or structure that may replace the IDT.

The committees called upon the Director-General (DG) and the Department to:

1. Ensure that a functioning administrative, financial management, accounting, and reporting system is maintained that can regularly report to the Minister and the National Treasury on matters that may weaken the achievement of the policy outcome to change the DPWI into a resilient, ethical, and capable government department and a performing organisation.
2. Ensure that the department gives proper attention to the weaknesses of coordination, regulation, and enforcement that it requires to fulfil its mandate as leader and regulator of the construction, professional built environment, and infrastructure sector.
3. Urgently complete the review of the White Papers 1997 and 1999; further, to complete and table the legislative work that is required to strengthen its mandate as accommodator and landlord of the state, so that it can properly claim management fees from client and user departments for construction, maintenance, and rehabilitation work completed within each financial year.
4. Complete the negotiations with the Presidency, and relevant departments, so that the DPWI can play the coordinating and leadership role in the infrastructure sector across the national, provincial, and municipal government levels.
5. Ensure that its legislative and regulatory regime is properly aligned to the Spatial Land Use Management Act (SPLUMA), and the Infrastructure Development Management Framework of government.
6. Strengthen its oversight function over the construction, professional built environment, and infrastructure sector of the country, to appropriately transform it for the benefit of the country and the economy.

7. Establish the Information and Communication Technology (ICT) Executive Committee as a precursor to completing an ICT Strategy that is aligned to its organisational strategy as per the five-year Strategic Plan and APP.
8. Ensure that the ICT Executive Committee drives the completion of the rollout of the ARCHIBUS software so that the Immovable Asset Register can be properly maintained and updated across the nine provinces.
9. Ensure that an updated, fit-for-purpose ICT Architecture is rolled out so that key functions of the DPWI and PMTE, such as an updated Immovable Asset Register (IAR) can be achieved. This will assist the PMTE to unlock the value of the government immovable assets and properties through prudent investments that can eradicate the funding gap.
10. Complete the overhaul and renewal of the ICT Architecture so that the data collection and verification processes to achieve the policy objective to create work opportunities for indigent families through the EPWP is achieved and provinces and municipalities can access the incentive grants. This upgrade of the ICT Architecture is further crucial to achieve the objective of the DPWI and PMTE achieving a clean audit from the Office of the Auditor-General for the 2020-2021 financial year and throughout each year of the sixth administrative term.

6. The budgetary allocations and programmes of each of the Public Works and Infrastructure Entities:

6.1. The Council for the Built Environment (CBE):

The CBE is a schedule 3A entity established by the Council for the Built Environment Act (No. 43 of 2000). It is an entity of the National Department of Public Works and Infrastructure.

The CBE is responsible for regulating the following six built environment professional councils:

1. South African Council for Architectural Professions (SACAP).
2. Engineering Council of South Africa (ECSA).
3. South African Council for the Project and Construction Management Professions (SACPCMP).
4. South African Council for the Landscape Architectural Profession (SACLAP).

5. South African Council for the Quantity Surveying Profession (SACQSP).
6. South African Council for the Property Valuers Profession (SACPVP).

The CBE oversees and regulates the six professional councils responsible for regulating built environment professionals such as architects, engineers, quantity surveyors, landscape architects, property valuers, and project and construction managers.

In its planning documents for this financial year, the CBE states its mandate as follows:
"The scope of the CBE and councils for the professions in the Built Environment (BE) value chain is to regulate those Built Environment Professions (BEPs) which conceptualise, design, build, maintain and transfer social and economic infrastructure. The CBE executes its mandate from the Council for the Built Environment Act (No. 43 of 2000) (the CBE Act), while also being mindful of the following legislations, regulations, policies and best practice guidelines to exercise good governance, ethical leadership and corporate citizenship. The CBE adopted a Compliance Policy and implements a compliance action plan for identified compliance obligations with quarterly disclosure."

6.1.1. CBE Budgetary allocation for 2020/21:

The **total revenue** of the CBE equals R58.7 million, which is an increase of R2.6 million, (or 4.6 per cent in nominal terms) and 0.22 per cent in real terms from the R56.1 million in 2019/20.

Like the other Public Works and Infrastructure entities, the CBE receives part of its revenue as a transfer from the DPWI's Programme 4, while the rest consists of sales of goods and services, and non-tax revenue.

The total revenue consists of the following:

- R55.2 million - Transfer Received/ Grant Allocation, an increase of R2.4 million from the R52.8 million received in 2019/20.
- R2.5 million - Sales of goods and services, other than capital assets, an increase of R120 000 from the R2.4 million amount for 2019/20.

- R997 000 - Other non-tax revenue, an increase of R48 000 from the R949 0000 received in 2019/20.

In terms of economic classification: Current Expenses/Current Payments are as follows:

- R32.9 million towards Compensation of Employees, an increase of R2.6 million from the R30.3 million allocation in 2019/20.
- R25.8 million on Goods and Services, a decline of R22 000 from the R25.9 million allocation in 2019/20.

The following table shows the allocations to the programmes through which the CBE plans to execute its mandate:

Programme	**Medium-term estimate**		
R thousand	**2021/21**	**2021/22**	**2022/23**
Programme 1: Administration	52 034	54 773	56 850
Programme 2: Transformation (Previously Skills Development in the Built Environment)	2 065	2 168	2 250
Programme 3: Skills and Capacity Development (Previously Built Environment Research, Information and Advisory)	2 775	2 914	3 024
Programme 4 : Research and Advisory (Previously Regulation and oversight of six BEPCs)	630	661	687
Programme 5 : Regulation and Public Protection (Previously Government Policies and Priorities)	1 200	1 397	1 450
Total expense	**58 704**	**61 913**	**64 261**

6.2. The Construction Industry Development Board (CIDB)

The CIDB provides leadership to stakeholders; stimulates the growth, reform and improvement of the construction sector; and enhances the industry's role in the South African economy. The total **budget for 2020/21 is R194.3 million.**

The budgetary allocations to perform its mandate per programme for 2020/21 is as follows:

Programme	**Medium-term Expenditure Estimates**			
	2019/20	**2020/21**	**2021/22**	**2022/23**
Administration	82,044	86,556	91,317	95,883
Research and Development	-	7,000	7,350	13,232
Construction Industry Regulation	71,384	33,343	35,387	37,156
Construction Industry Performance	16.039	16,921	17,851	18,744
Procurement and Development	14,693	15,501	16,354	17,172
Provincial Offices	-	35,000	36,750	38,588
Total	**184,160**	**194,321**	**205,009**	**220,774**

6.2.1. Action items to be performed with the R194.3 million budget:

- The CIDB shall revisit and ensure that the Contractor Register, as detailed in Chapter 3, Section 16 of the Act, is up-to-date in terms of all aspects for all contractors that are registered, and in particular in relation to empowerment and B-BBEE compliance. It is essential that this is actioned and completed within the next 6 months.
- The CIDB shall commence with the process of developing a database and Register of Professional Service Providers. This has not been compulsory up until now. The Minister, however, shall require that this will become compulsory as at the beginning of the 2021/22 financial year, especially for Special Infrastructure Projects, as determined by the Infrastructure Development Act, No 23 of 2014.
- The CIDB, in partnership with DPWI, to develop a programme and implementation manual of how to mainstream the Expanded Public Works Programme (EPWP) in all built environment departments across all spheres of government, as well as within other

Public Employment Programmes.

6.2.2. Matters related to the CBE and CIDB that emerged from deliberations: [31]

The Committees noted that the planned programmatic outcomes depended on how well stakeholders and voluntary associations participated in the planned activities – without enforcement power, weak participation could result in the mandated functions of the CBE and CIDB remaining incomplete.

The Strategic Plans and APP indicated on-going challenges of participation with established construction and professional built environment companies, but it did not provide sufficient information on how it was going to enforce participation and ensure transformation across the sector. The two entities also did not show enough strategic inventiveness to deal with the matter of coordination that was required to perform their functions across the sectors.

It might be necessary to incentivise participation in strategies to transform the construction and professional built environment and construction sectors. Participation in the Transformation Indabas, the structured graduate internship programme, and learnerships.

Incentives could include tax breaks to companies that take on a number of graduate professionals or construction workers for internship to professional registration. This may include the waiving of the high cost of first-time professional registration fees to increase the number of graduates that become registered professionals, and have a direct impact on transformation in the sectors. The CBE and CIDB have to discuss such incentive breaks with stakeholders, the South African Revenue Services (SARS), and the National Treasury.

It was noted that it was important to promote the professional registration of qualified built environment professional graduates. There has been a tendency for municipalities to continue

[31] These matters emerged from deliberations focused on the Strategic Plans, APPs, and budgetary allocations of the CBE and the CIDB in a joint virtual meeting held on 20 May 2020 of Joint Meeting of the Portfolio Committee on Public Works and Infrastructure and Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure.

using unregistered professionals. The CBE was meeting with the South African Local Government Association (SALGA) to address this matter.

It was further crucial that a proper regulated Structured Candidacy Programme be implemented across the sector and that built environment professional employers had to take concrete steps to prevent long lapses before graduate interns enter professional registration examination processes. In both the construction and professional built environment sectors, training and mentorship was an important cog in the transformation process.

In the case of the CIDB, it was noted that the budget allocation for transformation was reduced, yet the number of programmes increased. This suggested that more had to be done with less. This could lead to employment contracts being terminated and workers being left destitute. In addition, the planned outcomes may not be achieved with a lower budget allocation.

The important matter of the CIDB keeping the construction contractor register, and that it had to be able to keep a record of contractors with a bad record of on-time-completion of contracts, low quality of work, and other incidences that hamper completion of projects on time and within budget.

6.3. Agrément South Africa is mandated to certify non-standardised or unconventional built environment construction products, materials and systems through technical assessments that verify whether such products, materials and systems are fit for purpose.

The increased focus of the DPWI as sector leader, on infrastructure development, the long-term policy objective in the NDP[32] to increasingly provide human settlements where people can live in dignity, with social service infrastructure close to their homes, make the work of the ASA quite important.

All areas of infrastructure development and the built environment professional sector face challenges.

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[32] The NDP, stresses the need to fundamentally reshape the apartheid geo-spatial form. It acknowledges that it may take many decades, but directs that all government departments and entities should strive for meaningful progress in creating urban settlements that are functionally integrated, balanced and vibrant, including the revival of rural areas.

Specifically the issue of providing human settlements in a context of economic downgrades, and a narrowing tax base. People are also increasingly dependent on government for housing assistance, provision of basic services and the maintenance of their residential areas.

It is important to note that in its planning documentation, the ASA uses the estimates of the Statistics South Africa (Stats SA), noting that "the demand for adequate housing is about 2.2 million households, which includes households in informal settlements and backyard shacks. These households are dependent on the intervention of the State for housing. Of these, 1.7 million have registered in the Needs Database of the Department of Human Settlements (DHS)."[33]

As an entity that reports to the Minister of Public Works, the entity is aligned to the commitment of the DPWI to work in ways that are more efficient and use the budgetary allocations to perform its core activities in support of the country's broader socioeconomic objectives.

6.3.1. Tasks that ASA must achieve:

In its planning documentation tabled to Parliament, the ASA notes that the NDP guides it to play an integral role as part of government, which would include[34]:

- Systematically responding to entrenched spatial patterns across all geographical scales that exacerbate social inequality and economic inefficiency;
- Taking account of the unique needs and potential of different rural and urban areas in the context of emerging development corridors in the Southern African sub-region before making decisions on developments;
- Reviewing State housing policies to better realise constitutional housing rights, ensuring that the delivery of housing is used to restructure towns and cities and strengthen the livelihood prospects of households;
- Supporting active citizenry and developing incentives through a range of interventions, which includes the establishment of social compacts; and

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[33] ASA, APP, p. 31, Annual Performance Plan 2020/21.

[34] ASA, APP, pp. 31 and 32, Annual Performance Plan 2020/21.

- Planning for human settlements be guided by a set of normative principles that will create liveable, equitable, sustainable, resilient and efficient spaces, including supporting economic opportunities and social cohesion. (National DHS Strategic Plan 2015 to 2020).

The ASA therefore stated a strategic intention to continue with its core certification function of non-standardised fit-for purpose building material and systems. It will simultaneously work out alternative ways to use the allocated budgetary transfer from the DPWI and use its resources more efficiently to support government's policies to create opportunities for socioeconomic impact and built environment transformation.

6.3.2. The Budgetary Allocation to the ASA

The ASA gets some of its income from the annual government grant (during 2019/20, this comprised 85% of its total income), but also generate its own revenues.

For the 2019/20 financial year, the ASA had total revenues of R36.6 million. This amount comprised of R31.1 million from the annual transfer from the DPWI's Programme 4, and R5.5 million from its own revenue-generation. R4.2 million of this latter amount was generated for rendering of services and another R1.3 million from returns on investments.

The table below summarises the for ASA's budget allocation for the MTEF-period. The reduced budget allocation is a key challenge. This will require ASA to be more cost-efficient and to seek strategic ways to increase its own revenues in the future, so that it reduces its reliance on 85% of revenue from the government grant.

The ASA revenue for the 2020/21 financial year and over the MTEF is as follows:

Statement of financial performance	**Medium-term estimate**		
R thousand	**2020/21**	**2021/22**	**2022/23**
Revenue			

Tax revenue	–	–	–
Non-tax revenue	**4,300**	**4,570**	**4,666**
Sale of goods and services other than capital assets	2,966	3,154	3,349
Of which:			
Administrative fees	1,418	1,529	1,643
Sales by market establishment	1,548	1,625	1,706
Other sales	–	–	–
Other non-tax revenue	1,335	1,416	1,317
Transfers received	**31,164**	**32,564**	**33,413**
Total revenue	**35,464**	**37,134**	**38,079**
Expenses			
Current expenses	**35,464**	**37,134**	**38,079**
Compensation of employees	21,175	22,510	23,455
Goods and services	13,864	14,178	14,178
Depreciation	425	446	446
Interest, dividends and rent on land	–	–	–
Transfers and subsidies	**–**	**–**	**–**
Total expenses	**35,464**	**37,134**	**38,079**

6.4. The Independent Development Trust (IDT):

The Minister as policy leader of the IDT withdrew the formal submission of the Strategic Plan (2020-2025) and the APP for the current financial year. In addition, the committee did not receive any information from the Minister or the DPWI on the updated plans to transform, restructure, or dissolve the entity.

In spite of this, and in the absence of updated information of what will happen to the entity and the important social infrastructure mandate it has to deliver, guided by its mandate to exercise oversight over the entity, the Portfolio Committee lists the following as background. This is followed by a summary of the challenges involving the key task of project managing social infrastructure delivery across the provinces and regions of the country.

6.4.1. Background:

The IDT evolved from a grant-making organisation into a responsive development agency with a well-established footprint across South Africa.

The IDT augments government's capacity to achieve the objectives of the National Development Plan (NDP) and Vision 2030. A review and transformation process was undertaken has been started during the 2014 to 2019 five-year administration to strengthen this role. This included a confirmation of the IDT's mandate to deliver social infrastructure cost effectively.

The IDT is the public works and infrastructure entity that should use its resources in the initiation, planning and implementation of innovative and sustainable development projects, to positively address the challenges in which geo-spatial patterns of poverty, inequality, unemployment and underdevelopment occurs in the regions and provinces of the country.

This function of the entity was underpinned by the 1997 government resolution to reconstitute the IDT as a development agency and public entity to support all spheres of government. It followed Cabinet endorsement of a recommendation of a Cabinet Advisory Committee that, inter alia, "*The IDT must be transformed into a government development agency that will implement projects which are commissioned by government departments. It must cease to be a civil society organisation, an independent agency or funding agency*."[35] Building on its effectiveness as a civil society body and redistributive mechanism, the IDT was integrated into the public service delivery system in 1999 with the promulgation of the Public Finance Management Act (PFMA) (Act 1 of

[35] "Structural Relationships between Government and Civil Society Organisations", Report prepared for the Deputy President, Thabo Mbeki, South Africa. p. 3

1999), as amended, and listed as a Schedule 2 Major Public Entity. The 1997 mandate of the IDT remains in place.

Over the last few years, the entity, and the Minister recognised the operational and financial challenges that it faced due to its inability to collect management fees owed to it. This resulted reduced trust between the entity, client departments, and a decline in its business portfolio caused its deficits to grow substantially. The entity had been undergoing a long drawn out transformation process that included a revision of its operating model and organisational redesign. It remained firmly focused on achieving business growth and achieving long-term sustainability. The Board and management approved a turnaround plan aimed at repositioning the entity to be financially viable and self-sustaining.

All development reviews conducted by government, i.e. 5, 10 and 20 years[36], as well as the NDP 2030 placed emphasis on the need to build the capacity of government as a prerequisite for the attainment of its development imperatives. Thus, rather than duplicate programmes, or possibly positioning the IDT as a super agency that could usurp the functions of the DPW, the PMTE, or other government departments, the review of the IDT's mandate was important to enhance the objective of building a capable developmental state. The functions of the IDT is crucial for social infrastructure development across the urban and rural divide including redressing town and city geo-spatial planning that continued the inherited apartheid model. This role of the DPWI, PMTE and an entity such as the IDT is a key pillar on which future economic growth must take place.

6.4.2. Summary of Challenges:

1. In spite of a long drawn out transformation process, the IDT was never converted from a schedule 2 to a schedule 3A public entity;
2. The policy leader and the DPWI as lead department did not report on progress with the implementation of any aspect of the 2018 Turnaround Plan including how to align the IDT and the DPWI's mandates.

[36] Government's 10, 15, and 20 Year Review was done by the Presidency, in collaboration with all Ministers and departments, and printed and disseminated by the Government Communication and Information Services (GCIS).

3. In spite of the knowledge that the IDT was unable to collect management fees from client departments for project management services to construct social infrastructure projects, nothing was done to enforce debt payment by client departments;
4. The long drawn-out transformation process of the IDT caused competent administration and financial management personnel to leave and this weakened its abilities to collect debt, and negatively affected financial management, and caused compliance with legislation and regulations to suffer;
5. These resulted in negative audit findings made by the Auditor-General in its latest Management Report and previous Annual Financial Performance Reports;
6. The IDT suffered from a trust deficit with government departments looking for project management, and maintenance services from other entities such as Coega Development Corporation and the Development Bank of South Africa (DBSA);
7. The Board of the IDT lost members, which meant that it could not appoint financial, and management personnel.
8. Policy leadership did not timeously assist to ensure that the Board was quorate to develop restructuring and organizational design processes;

6.4.3. Strategy to deal with the entity's challenge:

There has been insufficient updated information provided to the Select Committee on Transport, Public Service and Administration, Public Works on the strategy to restructure the IDT. Members asked about it in meetings and it was agreed that a letter should be written to the Minister requesting for updates.

6.4.4. Recommendations related to the social infrastructure delivery tasks of the IDT, PMTE and DPWI:

- The Minister and the Department of Public Works and Infrastructure should improve its monitoring and oversight responsibility over the IDT and its Board, including ensuring that it was quorate so that it could complete its mandated responsibilities.
- The Minister and the DPWI should complete the legislation to align the mandates of the IDT, PMTE and DPWI.
- The legislation should provide for improved *enforcement*, *regulatory*, and *coordination power* (that is also required for the DPWI and the PMTE to perform its sector oversight, regulation, coordination, and enforcement) for transformation purposes as well as to collect management fees for infrastructure projects completed on behalf of client departments.
- 2.2. The Minister should regularly and timeously report her oversight findings to this committee on the path towards finalising certainty of the business case of the IDT by Cabinet.

6.5. Matters that emerged from the committee deliberations on the planning documents of the ASA and the IDT:

- The committees noted that the Agrément SA identified the lack of informing stakeholders and the public of its innovative fit-for-purpose building materials and systems as a weakness. The systems and building products that ASA develops could result in speeding up the completion of high quality, environmentally friendly houses, and social infrastructure amenities such as clinics, hospitals, police stations, and courts. Given the objectives of the National Development Plan, and Vision 2030, the ASA therefore has a crucial role to play in the public works and infrastructure sector.
- The committees made it clear that without sister departments such as the Department of Human Settlement and Sanitation Services, and municipalities using these products, the ASA would be operating in a vacuum. It must make its products and services to the public works and infrastructure sector known, and government departments at all levels must start using its certification services and products to reach the objectives of the NDP and Vision 2030.

- The committees welcomed the undertaking by the ASA to deal with this matter in its work with the National Home Building Registration Council (NHBRC) and the Department of Human Settlement and Sanitation Services, and sister infrastructure departments.
- The committees were pleased that the ASA had appointed females in more than half of its organogram.
- Concerning the Minister of Public Works and Infrastructure's assertion that the IDT's Strategic Plan, Annual Performance Plan (APP) could not be tabled, and that the entity had to be dissolved, the committee made the following comments:
- The committees strongly objected to the Minister having released information on the IDT's Exit Strategy in the media before informing the committees that she was dissolving the entity.
- The Interim Board Chair confirmed that the Minister and the DPWI knew of the Board vacancies and that no appointments were made to ensure that there the governance structure remained in place. He stressed that it had a strong internal audit committee in place.
- The committees stressed that the Minister needed a stronger monitoring and evaluation unit in her office that can timeously alert her of challenges in the governance structures of the public works entities as well as problems in her department.
- The matter of consequence management to deal with irregular expenditure, and possible malpractice in the IDT had been dealt with; a comprehensive report was available and would be submitted to the committees.
- The Minister, having requested the withdrawal of the Strategic Plan, and Annual Performance Plan of the IDT, the Committees may have to exclude it from its Budget Vote Reports for this financial year.
- The committees were not treating the presentation on the withdrawal of the IDT's Planning documents as the end of the process, but rather as the beginning. A good question to ask at this initial stage of dealing with the entity's challenge is whether this suggested Exit Strategy is the best solution for a department that should drive social infrastructure development.
- The Minister committed to account and provide detailed responses to questions put to her office on her mandated responsibilities. The Deputy Minister affirmed that the Office of

the Minister would not deliberately undermine the Portfolio and Select Committee on the work that it was mandated to perform.

- The committees committed itself to work with the Minister, the DPWI, PMTE, IDT, ASA, and other entities to find solutions for the challenges of this department that must lead, coordinate and regulate the South African public works and infrastructure sector.

7. Recommendations:

Having considered the planning documents and budgetary allocations for this financial year, the committee recommends that the Minister of Public Works and Infrastructure:

7.1. Ensures that a functioning administrative, financial management, accounting, and reporting system is maintained that can regularly report to the Minister and the National Treasury on matters that may weaken the achievement of the policy outcome to change the DPWI into a resilient, ethical, and capable government department and a performing organisation.

7.2. Provides that a comprehensive report on consequence management to deal with malpractice, and corruption and efficacy in the DPWI, PMTE, and IDT be made to the committee by the end of August 2020.

7.3. Urgently completes the review of the White Papers 1997 and 1999; further, tables the legislative work that is required to strengthen the DPWI mandate as accommodator and landlord of the state, so that it can properly claim management fees from client and user departments for construction, maintenance, and rehabilitation work completed within each financial year. Reports on this matter by August 2020.

7.4. Reports on the negotiations with the Presidency, and relevant departments, for the DPWI to play the coordinating and leadership role in the infrastructure sector across the national, provincial, and municipal government levels. A comprehensive report to be made to the committee by end of August 2020, on the funding, performance reporting, and accounting flow in which the facilitation and coordination of public infrastructure development will unfold through the rollout of the District Development Model across South Africa's 44 districts.

7.5. Ensures that the DPWI legislative and regulatory regime is properly aligned to the Spatial Land Use Management Act (SPLUMA), and the Infrastructure Development Management Framework of government. Reports on this matter by end of August 2020.

7.6. Ensures that the ICT Executive Committee drives the completion of the rollout of the ARCHIBUS software so that the Immovable Asset Register can be properly maintained and updated across the nine provinces. Reports on this matter by July 2020.

7.7. Ensures that an updated, fit-for-purpose ICT Architecture is rolled out so that key functions of the DPWI and PMTE, such as an updated Immovable Asset Register (IAR) can be achieved. This will assist the PMTE to unlock the value of the government immovable assets and properties through prudent investments that can eradicate the funding gap. Reports on this matter by 30 September 2020.

7.8. Completes the overhaul and renewal of the ICT Architecture for improved data collection and verification processes to achieve the policy objective to create work opportunities for indigent families through the EPWP and to get a clean audit report for this financial year.

7.9. Instructs the PMTE, to report on scheduled maintenance and the plans to decrease unscheduled maintenance.

7.10. Instructs the EPWP branch to report on innovative ways to up-skill beneficiaries, in order to reduce our national skills deficit.

7.11. Leads the DPWI to undertake inter-governmental cooperative programs with Departments such as Department of Trade, Industry, and Competition (DTIC), Small Business Development (DSBD), Higher Education and Training (DHET), and Employment and Labour (DEL), with a view to increase training and skills development to achieve the policy objectives to create employment and eradicate poverty.

7.12. Urgently informs the committee of the plan to ensure that government has a social infrastructure development agency in place to continue the service delivery of the Independent Development Trust (IDT). Further, to consider alternatives to continue to initially made plans to restructure the IDT into a social infrastructure delivery agency established as a government component in terms of the Public Service Act.

7.13. Provides a comprehensive report on expenditure during the Covid-19 disaster period and the provision of personal protection equipment and professional services to put quarantine sites in place across national, provincial and local government level. The report to be made to the committee by the end of September 2020.

7.14. Completes the legislation to align the mandates of the IDT, PMTE and DPWI, and provide for improved *enforcement*, *regulatory*, and *coordination power* (that is also required for the DPWI and the PMTE to perform its sector oversight, regulation, coordination, and enforcement) for transformation purposes as well as to collect management fees for infrastructure projects completed on behalf of client departments. Reports on this matter by 28 February 2021.

7.15. Reports to the committee on the transformation targets for designated groups of the department, the PMTE, and the public works and infrastructure entities to ensure that the problem of the high vacancy rate is addressed. Feedback is required in each quarterly performance report on an increased budgetary allocation to fill vacancies so that specialised built environment professionals in the PMTE can be attracted and retained.

7.16. Reports on improved legislative and regulatory change to address the difficulties experienced by the CBE and CIDB to transform the construction and professional built environment. Updates this committee timeously on developments on transformation strategies in the construction and professional built environment in a comprehensive report by the end of 31 July 2020.

7.17. Reports on innovative measures taken to incentivise participation in strategies to transform the construction and professional built environment and construction sectors improve stakeholder participation in the Transformation Indabas, the structured graduate internship programme, and learnerships. This report is required by 31 July 2020.

7.18. Reports on the strategies to improve professional registration of qualified built environment professional graduates including a proper regulated Structured Candidacy Programme for the professional built environment sector so that the built environment professional employers could take concrete steps to prevent long lapses before graduate interns enter professional registration through examination processes.

7.19. Instructs the ASA to report to the committee on strategies it will undertake to ensure that its products and services is known and used by government departments at all levels to advance and speed up the objectives of the NDP and Vision 2030. The strategies undertaken in collaboration with the CBE, the CIDB, the Department of Human Settlement and Sanitation Services, the National Home Builder Registration Council (NHBRC), and municipalities to use environmentally friendly building systems and materials. A report to be made by 30 September 2020.

Report to be considered.

6. REPORT OF THE SELECT COMMITTEE ON TRANSPORT PUBLIC SERVICE AND ADMINISTRATION, PUBLIC WORKS AND INFRASTRUCTURE ON BUDGET VOTE 12: PUBLIC SERVICE AND ADMINISTRATION, AND STRATEGIC PLANS AND ANNUAL PERFORMANCE PLANS 2020-21 OF THE DEPARTMENT OF TRANSPORT AND ENTITIES REPORTING TO THE MINISTER OF TRANSPORT, DATED 10 JUNE 2020

The Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure, having considered Budget Vote 12: Public Service and Administration and the Strategic Plans and Annual Performance Plans of the Department of Public Service and Administration and the entities reporting to the Minister of Department of Public Service and Administration, reports that it could not reach a decision on the Budget Vote.

1. BACKGROUND

The Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure (hereinafter referred to as the Select Committee), having considered the directive of the National Council of Provinces to consider and report on the Strategic Plans, Annual Performance Plans and Budget allocations of the Department of Public Service and Administration, reports as follows:

2. INTRODUCTION

Parliament plays an important role in overseeing planning and performance of government departments and public entities as well as Chapter 9 and 10 institutions. Section 27 of the Public Finance Management Act stipulates that the Minister of Public Service and Administration must table the annual budget for a financial year in the National Assembly before the start of the financial year.

In considering the strategic and annual performance plans, the Committee ensured that the Department of Public Service and Administration's plans and budget allocations are in line with the Medium Term Strategic Framework 2019/24. Budget allocation serves as a key instrument for government to promote socio-economic development. Budget allocation plays a critical role as an economic instrument of the government to reflect on the country's socio-economic policy priorities by translating priorities and political commitments into expenditures. Budget serves as a vital tool to operationalise government activities towards the achievement of its intended priorities. Furthermore, the budget highlights the constraints and trade-offs in policy choices.

On 20 May 2020, the Committee considered presentation on the Strategic and Annual Performance Plans and budget allocation of the Department of Public Service and Administration. This report summarises the presentations received from the Department of Public Service and Administration, focusing on the 2019/24 Strategic Plans and 2020/21 Annual Performance Plans and Budget as well as allocations over the MTEF.

3. OVERVIEW OF THE DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION

The Department of Public Service and Administration is expected to implement and coordinate interventions aimed at achieving an efficient, effective and development-oriented public service which is an essential element of a capable and developmental state as envisioned in the National Development Plan (NDP) 2030. The Constitution of the Republic of South Africa envisages a Public Service that is professional, accountable and development-oriented.

The NDP identifies specific steps that need to be taken to promote the values and principles of public administration as enshrined in the Constitution. Furthermore, the NDP highlights the need for a well-run and effectively coordinated state institutions with skilled public servants who are committed to the public good and capable of delivery consistently high-quality services, while prioritising the nation's development objectives.

Unevenness in capacity that leads to uneven performance in the Public Service is also acknowledged in the NDP. This is caused by a complex set of factors, including tensions in the political-administrative interface, instability of administrative leadership, skills deficits, insufficient attention to the role of the State in reproducing the skills it needs, the erosion of accountability and authority, poor organisational design and low staff morale. Steps are needed to strengthen skills, enhance morale, clarify lines of accountability and build an ethos of public service. These steps are guided by the need for long-term policy stability as well as awareness of potentially adverse effects of over-regulation.

The main objective of the Department is to put in place the mechanisms and structures that can support departments in developing their capacity and professional ethos. The Public

Administration Management Act (PAMA) 11 of 2014 was signed into law with an objective of establishing a uniform system of public administration to ensure that common norms and standards are achieved at all government levels. This effectively places DPSA at the centre of ensuring that all operating platforms and units to drive a compliant ethical public service are guided by norms and standards.

4. LEGISLATIVE MANDATE

The Department is mandated by Section 195(1) of the Constitution, which sets out basic values and principles that the Public Service should adhere to and the Public Service Act (PSA) of 1994, as amended. In terms of the PSA, the Minister for the Public Service and Administration is responsible for establishing norms and standards relating to:

- ✓ The functions of the public service.
- ✓ Organisational structures and establishment of departments and other organisational and governance arrangements in the public service.
- ✓ Labour relations, conditions of service and other employment practices for employees.
- ✓ The Health and wellness of employees.
- ✓ Information management.
- ✓ Electronic government in the public service.
- ✓ Integrity, ethics, conduct and anti-corruption; and
- ✓ Transformation, reform, innovation and any other matter to improve the effectiveness and efficiency of the public service and its service delivery to the public.

5. STRATEGIC GOALS OF THE DEPARTMENT

The key strategic priorities of the Department are explained below:

5.1 Implementing the Public Administration Management Act (PAMA) 11 of 2014

The Public Administration Management Act provides a uniform legal framework across the three spheres of government to bring some degree of commonality of purpose in key public administration areas. It was signed into law by the President of the Republic of South Africa in December 2014. The Act:

- Promotes and gives effect to the values and principles in Section 195 (1) of the Constitution.
- Provides for the transfer and secondment of employees.
- Promotes a high standard of professional ethics in the public administration.
- Promotes the use of information and communication technologies in the public administration.
- Promotes efficient service delivery in the public administration.
- Facilitates the eradication and prevention of unethical practices in the public administration; and
- Provides for the setting of minimum norms and standards to give effect to the values and principles of section 195 (1) of the Constitution.

5.2 Institutionalising a Single Public Administration

The three spheres of government are obliged to cooperate with one another within 'one democratic state' in mutual trust and good faith by adhering to Chapter Three principles as set out in the Constitution. Section 195 (1) of the Constitution further stipulates the basic values and principles governing public administration, which apply in every sphere of government, organs of state and public enterprises. The Public Service is, according to Section 197 (1) and (2) of the Constitution found within the public administration and must function, and be structured in terms of national legislation, as well as the terms and conditions of employment in the public service as directed by national legislation.

The three spheres of government are required to provide effective, transparent, accountable and coherent government for the country. This requires that the spheres respect each other's powers and functions, while striving to work together in a meaningful way to maximise service delivery impact for the citizens.

5.3 Implementing the White Paper on the Rights of Persons with Disabilities

Pillar 1 of the White Paper on the Rights of Persons with Disabilities refers to removing barriers to access and participation. The Department has to ensure accessibility to the building by persons with disabilities, such as the provision of ablution facilities and lifts for such persons. The Department also provides reasonable accommodation and assistive devices to persons with disabilities such as the provision of back support chairs to employees with back problems.

5.4 Implementing the Framework on Gender Responsiveness

The Framework requires institutions to reserve specific budget for gender matters, in particular for women empowerment. The Department, through the Gender Equality Strategic Framework Implementation Plan, annually sets aside budget for the implementation of the gender programme within the department.

5.5 Implementing National Youth Policy

The National Youth Policy discourages systematic racism within societies, however, it encourages institutions to embark on campaigns on raising awareness and changing attitudes and behaviour in relation to racist and xenophobic attitudes. The Department had established the Youth Forum which is responsible for the development of the annual plans for youth development. Conversations on racism and xenophobia had been the subject of debates in the workshops held in the Department.

5.6 Institutionalising the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)

South Africa is party to CEDAW and ratified the Convention on 15 December 1995. Part I (Article 1-6) of the Convention focuses on non-discrimination, sex stereotypes, and sex trafficking. The Department is abiding itself to this Framework as no employee is being discriminated against on the basis of gender. Part II (Articles 7-9) outlines women's rights in the public sphere with an emphasis on political life, representation, and rights to nationality. The Department always ensures the protection of the rights of women at the workplace.

This strategy is in line with the National Development Plan (NDP) in that a capable state, which is well run and effectively coordinated among different government institutions, will operate with the integrity and effectiveness this strategy envisages. The Department planned to introduce measures to professionalise the public service, which will include, amongst others, compulsory training programmes and the review and enhancement of appointment procedures for senior managers. The issue that the Department needs to revisit is the affirmation of people with disabilities. This is a huge challenge for public service since the employment is still around 2% in the public service. The public service has made tremendous strides with regard to the affirmation of women in senior management. However, the public service has not reached 50% gender representivity.

6. **STRATEGIC PRIORITIES 2019/2024**

The priorities for the Department of Public Service and Administration over the medium term period are informed by the National Development Plan objectives, which are therefore translated into the Medium Term Strategic Framework (MTSF) 2019-2024. The Department highlighted the following priorities to the Portfolio Committee:

6.3.1 Formulating and implementing the Public Administration Policy

The Minister for the Public Service and Administration makes regulations within and for the entire public service. In 2016, the Department developed the Public Administration Management Regulations on Conducting Business with the State, the Disclosure of Financial Interests and setting up the Ethics, Integrity and Discipline Technical Assistance Unit as well as the Office of Standards and Compliance Regulations, in terms of Section 18 of the PAMA.

The Department reported that there is insufficient data and information on the implementation of most administrative policy areas of the Public Service Act norms and standards, as historically standards were not structurally developed based on any critical success factors of capacity and capability across the public service, and which are therefore mainly not measurable. There is a need for an e-Enabled system for self-diagnostics and compliance audits through the measurement instruments of the Office of Standards and Compliance. The Organisational Functionality Assessment Tool is being consolidated to measure institutional governance, as well as organizational administration

6.3.2 Regulating and improving Public Service Employment and Conditions of Service

The State, as the employer, is going through difficult financial times and as a caring Government, departments have to function within the available resources. Failure to exercise financial prudence will result in government borrowing money from the external institutions to finance government work. The State is cautious of borrowing to pay salaries at the expense of delivery. In 2019 already, outlining the fiscal outlook during his Budget Speech, Finance Minister Tito Mboweni indicated that in 2018/19 the tax revenue would be R1.3 trillion and that spending would be about R1.5 trillion, leaving government with a budget deficit of R215 billion, or 4.3% of the gross domestic product.

Improving on Public Service Employment and Conditions of Service requires some restraint on the part of Government, but this restraint should not affect the multi-year agreement between Government and organised labour, which ended in March 2020. To be seen as *"good faith negotiator",* Government should honour the agreement and then negotiate for any other deal linked to the country's economic outlook going forward. To manoeuvre circumspectly in this area, Government needs to keep its word regarding the agreement already in place so that organised labour would be flexible in their approach concerning future collective bargaining.

Early Retirement in the Public Service should be decentralised as depicted in the Public Service Act. This will ensure pertinent challenges arising from the applications are addressed by individual departments with understanding of the situations of staff. This will enhance compliance and performance at the local level.

With respect to discipline management, the Department has noticed a high usage of legal representatives which is contrary to the Disciplinary Code and Procedure. Even though there has been an improvement on the average number of days taken to resolve disciplinary cases, departments are still delaying with the finalisation of disciplinary cases within 90 days and have suspensions that are longer than 60 days without holding disciplinary hearings. Such delays are in contradiction of the disciplinary code, which is costly to the government coffers.

6.3.3 Improving Public Service Information, Communication and Technology (ICT)

The Public Service continues to rely on brick and mortar as the main channel or mechanism (service delivery points) through which the citizens can access public services. Furthermore, these service delivery centres operate within specified times of the day, referred to as office hours. The two issues introduce a huge limitation or hindrance on how the citizens' access and experience public services as they often have to travel long distances to where these service delivery points are located. Importantly, they must do so within certain time limits or operating hours. It is important to further highlight that public services are requested and delivered through dis-integrated manual processes that are largely paper based, which does not allow government to have an integrated view of which citizens accessed which public services at which service delivery point.

With global trends clearly indicating that the public administration is mostly affected by 4IR trends owing to the old and often outdated ways of thinking, work and policies, the Department will be leading digital transformation of the public service. Some of the key interventions in this regard will include developing the required prescripts to enable and support the digital transformation of the public administration. This will ensure that government is a key economic enabler and player positively benefits from the digital economy.

6.3.4 Ensuring Service Delivery Improvement

A number of evaluation reports and studies on government service delivery indicate that, despite the existence of an enabling environment through regulatory frameworks and support mechanisms, some government services such as sanitation, water, electricity and housing are still not equally accessible to all South Africans (especially in rural areas) and delivery is not offered at the desired level. The persistent challenges that affect the service delivery value chain include, amongst others, poor and uncoordinated planning, spending of budgets allocated for delivery of services, lack of service standards, lack of technical skills, insufficient resources as well as lack of efficient and effective management of operations and frontline staff's adherence to the provision of services in line with the Batho Pele principles. Compliance on the submission and implementation of Service Delivery Improvement Plans (SDIPs) still remains a challenge.

Improvement in service delivery also requires adherence to the Batho Pele policy and the Public Service Charter, and strict monitoring thereof. In addressing the gaps and weaknesses, the Department will over the MTEF period, institutionalise a number of integrated interventions which include, amongst others, the strengthening of the implementation of the Operations Management Framework and Service Delivery Improvement Plans as well as a revised Programme to strengthen the implementation of the Batho Pele Programme.

In line with Cabinet decisions, the DPSA will also during this MTSF, transfer the Community Development Workers and Thusong Service Centres Programme coordination and implementation functions to the Department of Co-operative Governance and Traditional Affairs (COGTA). The DPSA will retain the policy development function as delegated to the Minister for Public Service and Administration.

7. BUDGET ANALYSIS

The Department of Public Service and Administration's overall budget allocation for 2020/21 is R565.7, compared to R527.2 million in 2019/20. This represents an increase of 6.91 per cent in nominal terms. However, in real terms the total budget for the Department increased by only 2.41 per cent between the 2019/20 and 2020/21 financial years.

The Department's total allocation over the MTEF period is R1.8 billion. This reflects a decrease by R1.4 billion from the 2019 Budget as a result of the reorganisation of vote structures, through which the Public Service Commission and National School of Government became standalone votes instead of departments within the Department of Public Service and Administration. Accordingly, transfers to departmental agencies and accounts decrease to R129.7 million (7.2 per cent of the Department's total budget) over the medium term. As the Department's work is labour intensive, spending on compensation of employees accounts for an estimated 59.1 per cent (R1.1 billion) of its total expenditure over the period.

The budget of the Department of Public Service and Administration is divided into six programmes. The main cost drivers are Programme 1: Administration (R258.3m); Programme 5: Service Delivery Support (R101.4m) and Programme 3: Public Service Employment and Conditions of Service (R77.7m). Programme 5 is a transversal programme assisting the entire public service with Service Delivery Improvement Plans (SDIPs).

Table 1: Programmes and budget allocation

Programme R'000	**Revised Estimates 2019/2020**	**Medium Term Expenditure Estimates**		
		2020/21	**2021/22**	**2022/23**
1. Administration	241.6	258.3	275.7	286.6
2. Policy Development, Research and Analysis	36.3	39.5	41.9	42.4
3. Public Service Employment and Conditions of Service	75.6	77.4	81.9	84.1
4. Government Chief Information Officer	23.3	28.6	30.3	31.7
5. Service Delivery Support	99.2	101.4	107.7	110.6
6. Governance of Public Administration	51.2	60.2	69.2	72.1

Total	**527.2**	**565.7**	**606.6**	**627.5**

Source: Estimates of National Expenditure (2020)

8. PROGRAMME PERFORMANCE

8.1 Programme 1: Administration

The main purpose of the Programme is to provide strategic leadership, management and support services to the Department, and coordinate the Department's international relations. The purpose of the Programme is to provide policy, coordinated strategic and overall administrative support services to enable the Ministry and the Department to deliver on mandates. The budget for Programme 1 increased from R241.6 million in 2019/20 to R258.3 million in 2020/21. This represents a 2.41 per cent increase in real terms in the budget allocation between 2019/20 and 2020/21. The Programme is one of the three major cost drivers under this Vote, consuming 45.66 per cent of the overall allocation. It is also one programme that experiences real percentage increase. The main cost drivers are Corporate Services at R93.2 million, Office Accommodation at R59.3 million and Finance Administration at R30.5 million.

Budget allocated in this Programme will be spent among other things on monitoring fruitless, wasteful and irregular expenditure and strive to achieve clean audit. The Department will draft Public Service Amendment Bill to be submitted to the Chief State Law Advisor for pre-certification. Furthermore, the Department will engage in consultations with the Department of Cooperative Governance on the draft Public Administration Management Amendment Bill. Moreover, it will develop regulations on selected areas of the PAM Act. The Department will review identified in house policies. An annual report will be produced on the compliance by the national and provincial departments with the DPSA policy.

The Department will support the implementation of Section 100 and 139 Monitoring and Intervention Bill by providing input towards the finalising of the Bill.

8.2 Programme 2: Policy Development, Research and Analysis

The main purpose of this Programme is to manage and oversee the setting and translation of public administration norms and standards into administrative policy instruments using research and policy analysis techniques. It is also responsible for managing organisational functionality assessments of Public Service efficiency and effectiveness for public administration reform.

The budget allocation for Programme 2 increased from R36.3 million in 2019/20 to R39.5 million in 2020/21. In real terms the budget allocation of Programme 2 increased by 4.23 per cent between 2019/20 and 2020/21. This programme consumes the first smallest portion (6.98 per cent) of the overall budget. The bulk of the Programme's budget (R16.6 million) is allocated to the Public Service Performance, Monitoring and Evaluation sub-programme, which measures organisational performance, functionality and productivity through the monitoring and evaluation of public service norms and standards, which are derived from the performance information of public service regulatory instruments. This is in line with spending priorities as this Programme develops policy and instruments to measure productivity and performance by the Department itself and the entire public service. The main cost driver is Public Service Performance Monitoring and Evaluation, which is a transversal project.

In order to improve the public sector productivity and functionality, the Organisational Functionality Assessment Tool was designed as a self-assessment process to enable departments to assess and diagnose, based on evidence, whether all the necessary service delivery enablers are in place to support delivery processes in an optimum and accountable manner. The Department intends to issue Organisational Functionality Assessment Tool to national and provincial departments for implementation in the public service. It will further draft quarterly reports on the compliance by national and provincial departments with DPSA policies produced.

8.3 Programme 3: Public Service Employment and Conditions of Service

The purpose of this Programme is to develop, implement and monitor, labour relations, human resources management and remuneration policies and guidelines. It also ensures coordinated collective bargaining.

Programme 3 accounts for 13.73 per cent (R77.7 million) of the total budget vote in 2020/21. Between 2019/20 and 2020/21, the budget allocation for Programme 3 decreased by -1.56 per cent in real terms. The programme is also responsible for monitoring the vacancy rate. The programme's budget is relatively bigger because it deals also with Negotiations and Discipline Management; Human Resource Development; Remuneration and Job Grading; Employee Benefits; Human Resource Planning and Performance Management for the entire Public Service. This Programme is in line with policy priority on developing and supporting the implementation of health and wellness frameworks and policies. The main cost drivers of the Programme are Employee Benefits at R28.5 million and Employment Practices and Performance Management at R13.4 million, which disburses performance bonuses and notch increases for those who performed beyond the normal rate. Also, another cost driver is the Remuneration and Job Grading sub-programme, which is at R13.2 million.

The Department will under this Programme develop wage setting mechanism for the public service, transition plan for the implementation of the uniform job grading system and issue guideline for the implementation of proposals on the reduction of costs in public administration. As part of intensifying efforts to fight corruption, the Department developed programme to improve the management of discipline within public service. Furthermore, the Department intends to implement Performance Management and Development System of Heads of Department as well as senior management service and level 1-12.

8.4 Programme 4: Government's Chief Information Officer

The Government Chief Information Officer Programme creates an environment for the deployment of information technology (IT) as a strategic tool of public administration. It minimises, controls and maintains IT related risks and costs in the public service. The budget allocation for Programme 4 accounts for 5.05 per cent share or R28.6 million of the total budget vote in 2020/21. In 2020/21, the allocation for Programme 4 increased by 22.75 per cent in nominal terms, but in real terms, it increased by 17.57 per cent. The main cost drivers are Public Service ICT E-enablement at R11.3 million and Public Service ICT Stakeholder at R7.5 million, respectively.

The Department intends to issue an audit report on the implementation of the National e-Government Strategy to national and provincial departments. The budget will be spent on submitting Public Service Data Governance Framework and develop status and recommendations for improvements on the public service Information and Communication Technology infrastructure. The Department will further issue to the national and provincial departments Public Service Information Security Standard and ensure compliance on a quarterly basis with regard to the policies.

8.5 Programme 5: Service Delivery Support

The purpose of the Programme is to manage and facilitate the improvement of service delivery in government. The Programme has seven sub-programmes, which are Management, Service Delivery Support Programmes, Service Delivery Planning, Service Delivery Improvement initiatives, Public Participation and Social Dialogue, Batho Pele Initiatives, and Community Development and Citizen Relations.

The Service Delivery Support Programme (Programme 5) manages and facilitates the improvement of service delivery in government. As indicated in Table 1, the budget allocation for Programme 5 increased from R99.2 million in 2019/20 to R101.4 million in 2020/21, representing a nominal increase of R2.2 million or 2.22 per cent. In real terms, the budget allocation of Programme 5 increased by -2.09 per cent between 2019/20 and 2020/21. Programme 5, at 17.92 per cent share, represents the second largest share allocation of the total budget vote in 2020/21. It is commendable for Government to allocate this much to service delivery support in order for the Department to give technical support and advice to national, provincial and local government institutions who experience service delivery challenges. This will serve as both a preventative and remedial measure to service delivery challenges and protests. The main cost drivers are the Centre for Public Service Innovation (CPSI), which takes R40.8 million, Service Delivery Improvement Initiatives at R16.8 million and Public Participation and Social Dialogue at R11.8 million of the Programme's budget respectively.

The budget will be spent on the following activities under Programme 5, which are the implementation plan and roadmap for the Revised Batho Pele Programme, Public Service Month and Batho Pele awards. The Department will further evaluate the African Peer Review Mechanism 2nd Generation review for the country. The Department will under this Programme develop business processes modernisation programme. The planned interventions are in line with the National Development Plan, which underscores quality service delivery as one of the enablers for economic development, improvement of the quality of life for citizens as well as improving public confidence in government.

8.6 Programme 6: Governance of Public Administration

The purpose of this Programme is to manage and oversee the implementation of policies, strategies and programmes on Public Service integrity, intergovernmental relations, the macro organization of the State, organisational design and senior leadership management. It also manages government intervention programmes. The Programme has seven sub-programmes which are: Human Resource Management Information Systems, Leadership Management, Organisational Design and Macro Organisation, Ethics and Integrity Management and International Relations and Government Intervention, Transformation Policies and Programmes, and Governance of Public Administration.

The budget allocation for Programme 6 increased from R51.2 million in 2019/20 to R60.2 million in 2020/21, representing a nominal increase of R9.0 million or 17.58 per cent. In real terms, the budget allocation to Programme 6 increased by 12.62 per cent between 2019/20 and 2020/21. Programme 6, at 10.64 per cent share, represents the fourth largest share allocation of the total budget vote in 2020/21. The main cost drivers are the Ethics and Integrity Management sub-programme at R22.5 million and the Organisational Design and Macro Organisation of the Public Service sub-programme at R9.9 million respectively.

As part of fighting corruption in the public service, the Department will be issuing guidelines on conducting life style audits to national and provincial departments. It will further develop database on public service employees appointed as board members to entities compiled. The Department will categorise employees in the public service designated their financial interest and analyse adherence by designated employees in relation to the Financial Disclosure Framework.

Over the medium term, the Department intends to submit a report on the improved adherence by national and provincial departments to the Directive on the performance of other remunerative work. Moreover, the Department will monitor the improved adherence by Public Service employees in national and provincial departments to the legislative framework prohibiting them from conducting business with an organ of state.

In line with the outcomes of a stable political-administrative interface and a stale public administration, the Department has an analysis of the average time spent by Heads of Department in their contracts. The reports were compiled and recommendations will be implemented with intention to improve the political-administrative interface.

9. OBSERVATIONS AND KEY FINDINGS

The Select Committee identified the following matters in relation to the Budget Vote 11, to which the Department must respond accordingly:

Department of Public Service and Administration

9.1 The Committee noted and considered the Strategic Plan (2019/24) and Annual Performance Plan (2020/21) of the Department of Public Service and Administration. The APP reaffirms the Department's mandate to implement and coordinate interventions aimed at achieving professional, accountable and developmental oriented public service, capable to deliver on the objectives of the National Development Plan (NDP) 2030.

9.2 The Committee took note of the possibility of reviewing Strategic Plan and Annual Performance Plan as well as budget allocated due to government measures introduced to curb the spread of coronavirus pandemic.

9.3 The Committee was not satisfied with the sluggish implementation of the Public Administration Management Act of 2014, which aims to ensure, among other things, the integration and coordination between public service and local government. The Act seeks to provide a legal framework across the three spheres of government by bringing some degree of uniformity. The Department has to play a meaningful role in the implementation of the PAM Act by developing regulations to operationalise it.

9.4 The Committee noted developments towards amending the Public Service Act of 1994, which will transfer powers of the human resource management from the Executive Authority to the Accounting Officers. The Committee was of the view that such amendments have to include powers and responsibilities of the Head of Administration as proposed in Chapter 13 of the National Development Plan 2030.

9.5 The Committee was of the view that there is a need to align the Public Service Act of 1994 with all other human resource and labour legislation in order to proficiently manage the delegations, disciplinary procedures and career incidents, especially at the senior management service (SMS) level.

9.6 The Committee welcomed the Department's initiatives of embarking on developing guidelines for lifestyle audits in the public service before March 2021. The Committee was pleased with the development. However, the Department was encouraged to speed up the process as these lifestyle audits will assist immensely in curbing the scourge of corruption in the public service.

9.7 The Committee noted the high usage of legal representatives during discipline management, which is contrary to the Discipline Code and Procedure, even though there was an improvement in resolving disciplinary cases in the public service. The Committee was not satisfied with the delays in finalising disciplinary cases within a timeline of 90 days and some suspension taking longer than 60 days without holding disciplinary hearings.

9.8 The Committee urged the Department to strengthen its efforts to modernise the public service through digitisation of government systems. Digital transformation serves as a strategic driver to create open, participatory and trustworthy public sector. Through digitisation transformation, Government would be able to improve its efficiency, effectiveness and governance in the public sector. The DPSA has to take a lead in developing strategies in digitising the public service

9.9 The Committee noted the delays encountered by the public service at senior management level in submitting Financial Disclosure forms due to COVID-19 challenges. The Committee urged the Department to encourage officials to utilise the e-Disclosure platform to avoid further delays.

9.10 Regarding the finalisation of disciplinary cases within a timeline of 90 days and some suspension taking longer than 60 days without holding disciplinary hearings, the Committee requested that the accounting officer present a progress report on this matter immediately upon lower grades of lockdown.

9.11 The Committee noted government feedback on the wage dispute. However, the Committee noted the Department's commitment to the implementation of the multi-year salary agreement. The Department further mentioned that there were a few outstanding matters to be resolved with organised labour within the Bargaining Council. The Committee further notes that the 2020/2021 budget outlines the need to reduce the public service wage bill by R160.2 billion over the MTEF period, including a reduction of R37.8 billion in the current financial year.

9.12 The Committee further noted the Minister's approval of the organisational structure for the Public Administration, Ethics, Integrity and Disciplinary Technical Assistance Unit. The Committee welcomed such development and urged the Minister to ensure that the Technical Assistance Unit is fully operational within a period of 90 days.

9.13 The Committee was not satisfied with a lack of compliance with submission of Service Delivery Improvement Plans by some government departments. A mechanism needs to be developed to inculcate a culture of compliance with regard to drafting and submission of SDIPs to the Department.

9.14 The Committee is of the view that the Department should ensure that public servants who are entitled to benefit from the Government Employees Housing Scheme utilise the service in order to discourage renting.

10 RECOMMENDATIONS

The Select Committee recommends that the Department of Public Service and Administration undertake the following activities:

10.1 Fast-tracking the amendments to all due legislation earlier than 2023 to ensure that all administrative, management and governance systems are streamlined. This will give Parliament ample time to finalise its legislation within its term.

10.2 Amending the Public Service Act of 1994 should include the establishment of the roles and responsibilities of the Head of Administration as one of the interventions encapsulated in the National Development Plan to manage career incidences of Heads of Department and other seniority positions.

10.3 Finalising regulations of the Public Administration Management Act of 2014 in order to give effect to comprehensive implementation of the Act. The Department should conduct consultations regarding the second phase of the Public Administration Management Regulations. The Department should, therefore, report on these activities at the latest by August 2021.

10.4 Taking a lead as mandated by the Public Service Act, 1994 to promote the use of Information Technology and Information Management towards improving service delivery in the public service.

10.5 Moving speedily to develop guidelines for conducting lifestyle audits in the public service. The Department should present the progress report on these guidelines to Parliament in November 2020.

10.6 Speeding up the process towards the establishment of the Technical Assistance Unit so that all technical operations are in place regarding the Public Administration Management Act and the implementation of Public Service Regulations, especially regarding ethical conduct and preventing officials from doing business with the State.

10.7 Adhering to the 2020/2021 budget, which outlines the need to reduce the public service wage bill by R160.2 billion over the MTEF period, including a reduction of R37.8 billion in the current financial year. The Department, working with National Treasury, should play a leading role during salary negotiations by sensitising organised labour about the impact of the wage bill and jointly devise workable strategies to mitigate the situation, without causing any job losses in the public service. The Department together with the National Treasury should present a report on the strategy and progress made to reducing the wage bill in Parliament by February 2021.

Report to be considered.