

*Thursday, 10 April 2025]*

No 54—2025] SECOND SESSION, SEVENTH PARLIAMENT

**PARLIAMENT**

**OF THE**

**REPUBLIC OF SOUTH AFRICA**

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**ANNOUNCEMENTS,**

**TABLINGS AND**

**COMMITTEE REPORTS**

THURSDAY, 10 APRIL 2025

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## ANNOUNCEMENTS

### National Assembly

#### The Speaker

#### 1. Referral to Committees of papers tabled

- (1) A letter, dated 03 April 2025, has been received from the Minister of Public Works and Infrastructure, requesting an extension for the submission of the strategic plan and annual performance plan for the Department of Public Works and Infrastructure.

Referred to the **Portfolio Committee on Public Works and Infrastructure**.

- (2) The following papers are referred to the **Joint Standing Committee on Defence** for consideration:

(a) 2024 Third Quarterly Report of the National Conventional Arms Control Committee (NCACC) for July – September 2024, tabled in terms of section 23(1)(c) of the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002).

(b) 2024 Fourth Quarterly Report of the National Conventional Arms Control Committee (NCACC) for October – December 2024, tabled in terms of section 23(1)(c) of the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002).

(c) Annual Report of the National Conventional Arms Control Committee (NCACC) for January – December 2024, tabled in terms of section 23(1)(c) of the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002).

- (3) The following papers are referred to the **Portfolio Committee on Home Affairs** for consideration and report:

(a) Strategic Plan of the Electoral Commission for 2025 – 2030.

(b) Annual Performance Plan of the Electoral Commission for 2025/26

- (4) The following papers are referred to the **Portfolio Committee on Agriculture** for consideration and report:

(a) Strategic Plan of the Perishable Products Export Control Board for 2021 – 2026.

- (b) Annual Performance Plan of the Perishable Products Export Control Board for 2025 – 2026.
- (5) The following papers are referred to the **Portfolio Committee on Electricity and Energy** for consideration and report:
- (a) Strategic Plan of the Department of Electricity and Energy for 2025 – 2030.
  - (b) Annual Performance Plan of the Department of Electricity and Energy for 2025/26.
- (6) The following papers are referred to the **Portfolio Committee on Higher Education** for consideration and report:
- (a) Strategic Plan of the Department of Higher Education and Training for 2025 – 2030.
  - (b) Annual Performance Plan of the Department of Higher Education and Training for 2025/2026.
  - (c) Strategic Plan of Agricultural Sector Education and Training Authority (AGRI-SETA) for 2025/26 – 2029/30.
  - (d) Annual Performance Plan of Agricultural Sector Education and Training Authority (AGRI-SETA) for 2025-26.
  - (e) Strategic Plan of the Banking Sector Education and Training Authority (BANKSETA) for 2025 – 2030.
  - (f) Annual Performance Plan of the Banking Sector Education and Training Authority (BANKSETA) for 2025 – 2026.
  - (g) Strategic Plan of the Culture, Arts, Tourism, Hospitality and Sport Sector Education and Training Authority (CATHSSETA) for 2025/26 – 2029/30.
  - (h) Annual Performance Plan of the Culture, Arts, Tourism, Hospitality and Sport Sector Education and Training Authority (CATHSSETA) for 2025/26.
  - (i) Strategic Plan of the Construction Sector Education and Training Authority (CETA) for 2025/26 – 2030.
  - (j) Annual Performance Plan of the Construction Sector Education and Training Authority (CETA) for 2025/2026.
  - (k) Strategic Plan of the Chemical Industries Education and Training Authority (CHIETA) for 2025 – 2030.
  - (l) Annual Performance Plan of the Chemical Industries Education and Training Authority (CHIETA) for 2025/26.
  - (m) Strategic Plan of the Education Training and Development Practices Sector Education and Training Authority (ETDP) for 2025/26 – 2029/30.

- (n) Annual Performance Plan of the Education Training and Development Practices Sector Education and Training Authority (ETDP) for 2025/2026.
- (o) Strategic Plan of the Energy and Water Sector Education and Training Authority (EW-SETA) for 2025/26 – 2029/30.
- (p) Annual Performance Plan of the Energy and Water Sector Education and Training Authority (EW-SETA) for 2020/26.
- (q) Strategic Plan of the Financial and Accounting Services Sector Education and Training Authority (FASSET) for 2025 – 2030.
- (r) Annual Performance Plan of the Financial and Accounting Services Sector Education and Training Authority (FASSET) for 2025/2026.
- (s) Strategic Plan of the Fibre Processing and Manufacturing Sector Education and Training Authority (FP&M SETA) for 2025/26 – 2029/30.
- (t) Annual Performance Plan of the Fibre Processing and Manufacturing Sector Education and Training Authority (FP&M SETA) for 2020/26.
- (u) Strategic Plan of the Food and Beverages Manufacturing Sector Education and Training Authority (FOODBEV-SETA) for 2025/26 – 2029/30.
- (v) Annual Performance Plan of the Food and Beverages Manufacturing Sector Education and Training Authority (FOODBEV-SETA) for 2025/26.
- (w) Strategic Plan of the Health and Welfare Sector Education and Training Authority (HW-SETA) for 2025 – 2030.
- (x) Annual Performance Plan of the Health and Welfare Sector Education and Training Authority (HW-SETA) for 2025/2026.
- (y) Strategic Plan of the Insurance Sector Education and Training Authority (INSETA) for 2025 – 20230.
- (z) Annual Performance Plan of the Insurance Sector Education and Training Authority (INSETA) for 2025/2026.
- (aa) Strategic Plan for the Local Government Sector Education and Training Authority (LG-SETA) for 2025 – 2030.
- (bb) Annual Performance Plan of the Local Government Sector Education and Training Authority (LG-SETA) for 2025/26.
- (cc) Strategic Plan of the Manufacturing, Engineering and Related Services Seta (MER-SETA) for 2025/26 – 2029/30.
- (dd) Annual Performance Plan of the Manufacturing, Engineering and Related Services Seta (MER-SETA) for 2025/2026.
- (ee) Strategic Plan of the Media, Information and Communication Technologies Sector Education and Training Authority (“MICT SETA”) for 2025 – 2030.

- (ff) Annual Performance of the Media, Information and Communication Technologies Sector Education and Training Authority (“MICT SETA”) Plan for 2025 – 2026.
- (gg) Strategic Plan of the Mining Qualifications Authority (MQA) for 2025/2026 – 2029/2030.
- (hh) Annual Performance Plan of the Mining Qualifications Authority (MQA) for 2025 – 2026.
- (ii) Strategic Plan of the Public Service Sector Education and Training Authority (PSETA) for 2025/26 – 2029/30.
- (jj) Annual Performance Plan of the Public Service Sector Education and Training Authority (PSETA) for 2025/26.
- (kk) Strategic Plan of the Safety and Security Sector Education and Training Authority (SAS SETA) for 2025/26 – 2029/30.
- (ll) Annual Performance Plan of the Safety and Security Sector Education and Training Authority (SAS SETA) for 2025/2026.
- (mm) Strategic Plan of the Services Sector Education and Training Authority for 2025 – 2030.
- (nn) Annual Performance Plan of the Services Sector Education and Training Authority for 2025 – 2026.
- (oo) Strategic Plan of the Transport Education Training Authority (TETA) for 2025 – 2030.
- (pp) Annual Performance Plan of the Transport Education Training Authority (TETA) for 2025 – 2026.
- (qq) Strategic Plan of the Wholesale and Retail Sector Education and Training Authority (W&R-SETA) for 2025 – 2030.
- (rr) Annual Performance Plan of the Wholesale and Retail Sector Education and Training Authority (W&R-SETA) for 2025 – 2026.
- (ss) Strategic Plan for the Council on Higher Education (CHE) for 2025/26 – 2029/30.
- (tt) Annual Performance Plan for the Council on Higher Education (CHE) for 2025/26.
- (uu) Strategic Plan of the National Skills Fund (NSF) for 2025 – 2030.
- (vv) Annual Performance Plan of the National Skills Fund (NSF) for 2025/26.
- (ww) Strategic Plan of the National Student Financial Aid Scheme (NSFAS) for 2025/26 – 2029/30.

- (xx) Annual Performance Plan of the National Student Financial Aid Scheme (NSFAS) for 2025/2026.
  - (yy) Strategic Plan of the Quality Council for Trades & Occupations for 2015/16 – 2025 – 2030.
  - (zz) Annual Performance Plan of the Quality Council for Trades & Occupations for 2025 – 2026.
  - (aaa) Strategic Plan of the South African Qualifications Authority (SAQA) for 2025 – 2030.
  - (bbb) Annual Performance Plan of the South African Qualifications Authority (SAQA) for 2025/26.
- (7) The following papers are referred to the **Portfolio Committee on Human Settlements** for consideration and report:
- (a) Strategic Plan of the National Home Builders Registration Council for 2025 – 2030.
  - (b) Annual Performance Plan of the National Home Builders Registration Council for 2025/ 26.
  - (c) Strategic Plan of the National Housing Finance Corporation for 2025 – 2030.
  - (d) Annual Performance Plan of the National Housing Finance Corporation for 2025 – 2026.
  - (e) Strategic Plan of the Property Practitioners Regulatory Authority for 2025 – 2030.
  - (f) Annual Performance Plan of the Property Practitioners Regulatory Authority for 2025 – 2026.
  - (g) Strategic Plan of the Social Housing Regulatory Authority for 2025 – 2030.
  - (h) Annual Performance Plan of the Social Housing Regulatory Authority for 2025 – 2026.
  - (i) Strategic Plan of the Housing Development Agency for 2025 – 2030.
  - (j) Annual Performance Plan of the Housing Development Agency for 2025 – 2026.
- (8) The following papers are referred to the **Portfolio Committee on Mineral and Petroleum Resources** for consideration and report:
- (a) Strategic Plan of the South African National Energy Development Institute for 2025 – 2030.
  - (b) Annual Performance Plan of the South African National Energy Development Institute for 2025/26.

- (9) The following papers are referred to the **Portfolio Committee on Police** for consideration and report:
- (a) Strategic Plan of the South African Police Service for 2025 – 2030.
  - (b) Annual Performance Plan of the South African Police Service for 2020/21.
  - (c) Strategic Plan of the Private Security Industry Regulatory Authority for 2025 – 2030.
  - (d) Annual Performance Plan of the Private Security Industry Regulatory Authority for 2025/26.
  - (e) Strategic Plan of the Civilian Secretariat for Police Service for 2025 – 2030.
  - (f) Annual Performance Plan of the Civilian Secretariat for Police Service for 2025/26.
  - (g) Strategic Plan of the Independent Police Investigative Directorate for Police Service for 2025 – 2030.
  - (h) Annual Performance Plan of the Independent Police Investigative Directorate for Police Service for 2025/26.
- (10) The following papers are referred to the **Portfolio Committee on Public Service and Administration** for consideration and report:
- (a) Strategic Plan of the Department of Public Service and Administration for 2025 – 2030.
  - (b) Annual Performance Plan of the Department of Public Service and Administration for 2025/26.
  - (c) Strategic Plan of the National School of Government for 2025 – 2030.
  - (d) Annual Performance Plan of the National School of Government for 2025/26.
- (11) The following papers are referred to the **Portfolio Committee on Social Development** for consideration and report:
- (a) Strategic Plan of the Department of Social Development for 2025/26 – 2029/30.
  - (b) Annual Performance Plan of the Department of Social Development for 2025/26.
  - (c) Strategic Plan of the South African Social Security Agency for 2025 – 2030.
  - (d) Annual Performance Plan of the South African Social Security Agency for 2025/26.
  - (e) Strategic Plan of the National Development Agency for 2025 – 2030.

- (f) Annual Performance Plan of the National Development Agency for 2025/2026.
- (12) The following papers are referred to the **Portfolio Committee on Women, Youth and Persons with Disabilities** for consideration and report:
- (a) Strategic Plan of the National Youth Development Agency for 2025 – 2030.
  - (b) Annual Performance Plan of the National Youth Development Agency for 2025/26
- (13) The following papers are referred to the **Portfolio Committee on Tourism** for consideration and report:
- (a) Strategic Plan of the Department of Tourism for 2025/26 – 2029/30.
  - (b) Annual Performance Plan of the Department of Tourism for 2025 – 2026.
- (14) The following papers are referred to the **Portfolio Committee on Trade, Industry and Competition** for consideration and report:
- (a) Strategic Plan of the Department of Trade, Industry and Competition for 2025 – 2030.
  - (b) Annual Performance Plan of the Department of Trade, Industry and Competition for 2025/26.
  - (c) Strategic Plan of the Companies and Intellectual Property Commission for 2025/26 – 2029/30.
  - (d) Annual Performance Plan of the Companies and Intellectual Property Commission for 2025 – 2026.
  - (e) Annual Performance Plan of the Competition Commission for 2025 – 2030.
  - (f) Annual Performance Plan of the Competition Commission for 2025 – 2030.
  - (g) Strategic Plan of the Competition Tribunal for 2025 – 2030.
  - (h) Annual Performance Plan of the Competition Tribunal for 2025/26.
  - (i) Strategic Plan of the Companies Tribunal for 2025/26 – 2029/30.
  - (j) Annual Performance Plan of the Companies Tribunal for 2025/26.
  - (k) Strategic Plan of the Export Credit Insurance Corporation of South Africa for 2025/26 – 2029/30.
  - (l) Annual Performance Plan of the Export Credit Insurance Corporation of South Africa for 2025/26.
  - (m) Strategic Plan of the Industrial Development Corporation of South Africa for 2025 – 2030.

- (n) Annual Performance Plan of the Industrial Development Corporation of South Africa for 2025/26.
- (o) Strategic Plan of the International Trade Administration Commission of South Africa for 2025 – 2029.
- (p) Annual Performance Plan of the International Trade Administration Commission of South Africa for 2025/26.
- (q) Strategic Plan of the National Consumer Commission for 2025 – 2030.
- (r) Annual Performance Plan of the National Consumer Commission for 2025/26.
- (s) Strategic Plan of the National Credit Regulator for 2024/25 – 2029/30.
- (t) Annual Performance Plan of the National Credit Regulator for 2025/26.
- (u) Strategic Plan of the National Consumer Tribunal for 2025 – 2030.
- (v) Annual Performance Plan of the National Consumer Tribunal for 2025/26.
- (w) Strategic Plan of the National Empowerment Fund for 2025 – 2030.
- (x) Annual Performance Plan of the National Empowerment Fund for 2025/26.
- (y) Strategic Plan of the National Gambling Board for 2025/26 – 2029/30.
- (z) Annual Performance Plan of the National Gambling Board for 2025/26.
- (aa) Strategic Plan of the National Metrology Institute of South Africa for 2025/26 – 2029/30.
- (bb) Annual Performance Plan of the National Metrology Institute of South Africa for 2025/26.
- (cc) Strategic Plan of the National Regulator for Compulsory Specifications for 2025/26 – 2029/30.
- (dd) Annual Performance Plan of the National Regulator for Compulsory Specifications for 2025/26.
- (ee) Strategic Plan of the South African National Accreditation System for 2025 – 2030.
- (ff) Annual Performance Plan of the South African National Accreditation System for 2025/26.

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## TABLINGS

### National Assembly and National Council of Provinces

## **1. The Minister of Finance**

- (a) Strategic Plan of the Ombud Council for 2025 – 2030.
- (b) Annual Performance Plan of the Ombud Council for 2025/26.
- (c) Corporate Plan of the Public Investment Corporation for 2025/26-2027/28.
- (d) Shareholder's Compact of the Public Investment Corporation for 2025/2026.

## **2. The Minister of Employment and Labour**

- (a) Strategic Plan of the Department of Employment and Labour for 2025/26 - 2029/30.
- (b) Annual Performance Plan of the Department of Employment and Labour for 2025/26.
- (c) Strategic Plan of the Commission for Conciliation, Mediation and Arbitration for 2025/26 - 2029/30.
- (d) Annual Performance Plan of the Commission for Conciliation, Mediation and Arbitration for 2025/26.
- (e) Strategic Plan of the National Economic Development and Labour Council (NEDLAC) for 2025/26 - 2029/30.
- (f) Annual Performance Plan of the National Economic Development and Labour Council (NEDLAC) for 2025/26.
- (g) Strategic Plan of Productivity SA for 2025/26 - 2029/30.
- (h) Annual Performance of Productivity SA for 2025/2026.
- (i) Strategic Plan of the Compensation Fund for 2025/26 - 2029/30.
- (g) Annual Performance Plan of the Compensation Fund for 2025/26.

## **3. The Minister of Trade, Industry and Competition**

- (a) Strategic Plan of the National Lotteries Commission for 2025 – 2030.
- (b) Annual Performance Plan of the National Lotteries Commission for 2025/26.
- (c) Strategic Plan of the Broad-Based Black Economic Empowerment Commission for 2025 – 2030.
- (d) Annual Performance Plan of the Broad-Based Black Economic Empowerment Commission for 2025/26 – 2027/28.
- (d) Strategic Plan of the South African Bureau of Standards for 2025/26 – 2029/30.

- (e) Annual Performance Plan of the South African Bureau of Standards for 2025/26.
- (f) Strategic Plan of the Takeover Regulation Panel for 2025-2030.
- (g) Annual Performance Plan of the Takeover Regulation Panel for 2025/2026.
- (h) Final Report of the Competition Commission of South Africa on the Fresh Produce Market Inquiry – 13 January 2025.
- (i) Executive Summary: Final Report of the Competition Commission of South Africa on the Fresh Produce Market Inquiry – 13 January 2025.

#### **4. The Minister of Public Service and Administration**

- (a) Strategic Plan of the Centre for Public Service Innovation for 2025-2030.
- (b) Annual Performance Plan of the Centre for Public Service Innovation 2025/26.

#### **5. The Minister of Sport, Arts and Culture**

- (a) Annual Performance Plan of Amazwi South African Museum of Literature for 2025 – 2026.
  - (b) Annual Performance Plan of the Ditsong Museums of South Africa for 2025 - 2026.
  - (c) Annual Performance Plan of the National Film and Video Foundation for 2025/26.
  - (d) Annual Performance Plan of the Pan South African Language Board (PanSALB) for 2025/26.
  - (e) Annual Performance Plan of the Robben Island Museum for 2025 – 2026.
  - (f) Annual Performance Plan of the Umsunduzi Museum for 2025 - 2026.
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# **COMMITTEE REPORTS**

## **National Council of Provinces**

### **1. PRELIMINARY REPORT OF THE SELECT COMMITTEE ON COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, WATER, SANITATION AND HUMAN SETTLEMENT ON LEGISLATIVE IMPACT SCRUTINY OF CUSTOMARY INITIATION ACT OF 2021: DATED 8 APRIL 2025**

#### **1. Contextual Background**

- 1.1 The Select Committee on Co-operative Governance and Traditional Affairs, Water, Sanitation and Human Settlement, having conducted Legislative Impact Scrutiny of Customary Initiation Act of 2021, reports as follows:
- 1.2. Parliament initiated a series of transformative objectives aimed at innovating the Institution's core business and enhancing the impact of its constitutional mandate in the 7th Term. To achieve these objectives, multi-disciplinary teams, including a Legislative Impact Assessment Framework workstream were established.
- 1.3. The primary aim of the Legislative Impact Assessment Framework objective was to strategically focus on Parliament's core mandates, namely enhancing the legislative function, ensuring that legislation passed is implementable with the understanding of its outcomes and impact. The framework has identified various ways in which parliaments can introduce Post Legislative Scrutiny in parliamentary practice.

- 1.4. These include (1) asking ministries to provide regular reporting to parliament on the implementation of laws, (2) asking government departments to produce a memorandum on the Act that details how the Act has worked in practice after three to five years since it was passed, (3) outsourcing or commissioning research on law implementation to external institutions, either autonomous official institutions or external independent institutions such as universities, (4) conducting their own inquiries on the implementation of selected laws (5) holding public hearings, collecting evidence and conducting in-house research, (6) consulting constitutional instruments, such as SAHRC, FFC, SALGA on the effectiveness of laws, each under their individual mandates, (7) consulting the Parliamentary Budget Office, (8) Parliamentary committees planning for PLS and setting targets in their Annual Performance Plans and (9) Parliamentary committees reporting the findings of PLS to the Houses of Parliament.
  
- 1.5. The framework describes three methodological phases in organising Post Legislative Scrutiny. **Phase 1 includes**\_ defining the objectives and scope, collecting background information and prepare a data collection plan, identifying key stakeholders and prepare a consultation plan, and reviewing implementing agencies and delegated legislation. **Phase 2 includes:** conducting consultation and public engagement activities, analysing post-legislative scrutiny findings and drafting the PLS report. **Phase 3 includes:** disseminating the report and make it publicly accessible, inviting a response from the government to ‘comply or explain, conducting follow up to the post-legislative scrutiny activities and evaluating the post-legislative scrutiny inquiry results and process.
  
- 1.7. During the first and second quarters of 2024/25, an integrated team was established and a review of the draft framework with a focus on pre-legislative and post- legislative impact assessment was undertaken. The annual target for the 2024/25 performance cycle is to pilot the draft Legislative Impact Assessment Framework on selected Bills. The SC on Cooperative Governance and Public Administration was identified to participate in a pilot study of the draft LIAF, with focus on the Customary Initiation Act 2 of 2021.

## 2. Customary Initiation Act 2 of 2021

- 2.1. The Customary Initiation Act of 2021 provides for the effective regulation of customary initiation practices; for the establishment of a National Initiation Oversight Committee and Provincial Initiation Coordinating Committees and their functions; for the responsibilities, roles and functions of the various role-players involved in initiation practices as such or in the governance aspects thereof; for the effective regulation of initiation schools; for regulatory powers of the Minister and Premiers; for the monitoring of the implementation of this Act; to provide for provincial peculiarities; and to provide for matters connected therewith.
- 2.2. The Customary Initiation Act, 2021 (Act No. 2 of 2021) commenced on 1 September 2021. It is the first national legislation regulating the governance of customary initiation schools and practices. The Act sets forth norms and standards for the governance of customary initiation practices and schools. The Act provides for the establishment of the National Initiation Oversight Committee (NIOC) as a statutory structure at national government level for overseeing implementation of the Act.
- 2.3. The Act further provides for the establishment of the Provincial Initiation Coordinating Committees (PICCs) to oversee and enforce compliance with the Act by all role players at provincial level. The PICCs are the legal authority for all customary initiation matters in their respective provinces.
- 2.4. The Act further empowers the Department of Traditional Affairs and the NIOC to monitor compliance with and implementation of the Act by all role players. The NIOC and DTA monitor provincial role players on compliance and implementation of the Customary Initiation Act through monitoring sessions with all the 9 PICCs, since the PICCs are statutory structures empowered to monitor all provincial role players on initiation. The purpose of the monitoring sessions is to receive and validate customary initiation.
- 2.5. Chapter three dealt with responsibilities, roles and functions of the government, house of traditional leaders, traditional leaders, principals and caregivers, parents or legal or customary guardians, traditional surgeons, medical practitioners, SAPS and the NPA.

- 2.6. Chapter four deals with initiation schools. In terms of the Act, initiation schools must be registered if they complied with prescribed criteria. Registration would only be valid for a specific initiation season; in certain instances, must obtain permission of landowner to hold initiation school on such land. Initiation seasons may not interfere or overlap with official school terms.
- 2.7. Clause 28 deals with consent, prohibitions, age and circumcision. No initiate may be assaulted or abused under the guise of discipline. Principals must ensure that water and sanitation needs are catered for. Death of an initiate must immediately be reported by principal and investigated SAPS.
- 2.8. Chapter five deals with general matters such as: allowances and expenditure – only relates to optional members of NIOC; offences; appeals: against decisions of NIOC and PICCs; regulations; monitoring of implementation of Act by the Department, provinces; and provincial peculiarities.

### **3. Post Legislative Impact Scrutiny of Customary Initiation Act of 2021**

- 3.1. On the 10<sup>th</sup> of February 2025, the Select Committee on Cooperative Governance and Public Administration resolved to conduct Legislative Impact Scrutiny of the Customary Initiation Act of 2021. The Select Committee adopted a methodological phase of reviewing the objects of the Customary Initiation Act of 2021, consulting and engaging the role-players involved in the implementation of the customary initiation practices across the provinces and preparing a report contained with findings and recommendations.
- 3.2. The primary objective of post legislative impact scrutiny was to establish and assess the joint role played by varying stakeholders (national and provincial government, local chiefs, communities, the National House of Traditional Leaders, national and provincial initiation coordinating committees in curbing and preventing the activities of illegal initiation schools, illegal initiation surgeons, kidnappings, legislative compliance, deaths of initiates and to consider proposed amendments to the Customary Initiation Act of 2021.

#### **4. Consultations and Engagements with the Customary Initiation Role-Players.**

- 4.1. As part of dealing with the challenges related to the implementation of the Customary Initiation Act, the Select Committee developed a 2025 First Term Programme to consult and engage with the Department of Cooperative Governance and Traditional Affairs , National House of Traditional and Khoisan Leaders, CONTRALESA, National and Provincial Initiation Coordinating Committees and chapter 9 institutions, namely the South African Human Rights Commission, Commission for Gender Equality, Commission for the Promotion and Protection of the Rights of Cultural, Religious, and Linguistic Communities as well as the South African Local Government Association. .
- 4.2. The primary purpose of consultation and engagement with the role-players was to provide opportunities to members of the Select Committee on action plans to deal challenges related to illegal initiation schools, illegal initiation surgeons, kidnappings, deaths and proposed legislative amendments to Customary Initiation Act of 2021.

#### **5. Engagement with the Department of Traditional Affairs**

- 5.1. On the 18<sup>th</sup> of February 2025, the Department of Traditional Affairs briefed Members of the Select Committee on national and provincial statistical breakdown of customary initiation deaths.
- 5.2. The presentation focused on deaths of customary initiates nationally from 2021 to 2024; Initiates' deaths from 2021 to 2024 in the Eastern Cape; Free State; Gauteng; KwaZulu Natal; Limpopo; Mpumalanga; Northern Cape; North-West; Western Cape; causes of deaths, contributing factors; interventions to address initiation casualties and recommendations

#### **6. National Statistics of Initiates Deaths from 2021 to 2024**

- 6.1. The Department of Traditional Affairs reported that the total number of deaths across all provinces (nationally) from 2021 to 2024 is 322. The Eastern Cape recorded the highest number of initiates' deaths, accounting for 193 (60%) of the total number of deaths

nationally. Provinces with more than 10 deaths over the four-year period, after the Eastern Cape are, Free State with 46 deaths, Mpumalanga with 25 deaths, North-West with 21 deaths, Gauteng with 14 deaths. KwaZulu Natal 11 death) in the past four years, which occurred during the 2024 summer initiation season, and Northern Cape with 4 deaths. Other Provinces with lower death rates (less than 11 deaths) from 2021-2024 are Limpopo with 10 deaths and Western Cape with 9 deaths.

- 6.2. According to the departmental report 65% (208) of the 322 deaths occurred in the summer season and 35% (114) occurred in the winter season. Of the 208 summer initiation deaths, the highest were in the Eastern Cape (135 deaths- 65%), followed by Free State with 37 deaths, followed by North-West with 16, and the Western Cape with 9. The other Provinces experiencing summer initiation deaths on a smaller scale are Gauteng and Northern Cape,

## **7. Deaths of Initiates in Eastern Cape Province from 2021 to 2024**

- 7.1. The Department reported that the total number of deaths in the province over the four years is 175, of which 58 were recorded in winter and 117 in summer. This indicates that significantly more deaths in the province occur during the summer initiation season, with the death toll being more than double that of the winter initiation season.
- 7.2. The departmental report has indicated that of the 175 deaths over the four-year period, 44 deaths were recorded in 2021, and 34, 54 and 43 deaths occurred in 2022, 2023 and 2024, respectively. According to the reports, 2023 was a peak year with the highest number of deaths in both seasons, 19 in winter and 35 in summer. In terms of departmental statistical analysis, the deaths of initiates were due to high temperatures in summer causing dehydration and other associated medical complications. The number fluctuated in winter but remained consistently higher than in summer, peaking at 35 in 2023.

## **8. Deaths of Initiates in Free State Province from 2021 to 2024**

- 8.1. The Department reported that the total number of initiates' deaths over the four years is 46, of which 9 were recorded in the winter initiation season and 37 in the summer. Like the Eastern Cape, summer deaths in the Free State are consistently higher due to the very high

temperatures in summer in some parts of the province, causing dehydration and other related medical complications.

- 8.2. The report has shown that every year (except 2021), summer has significantly more deaths than winter. Winter deaths spiked in 2024, from 1 death in 2022 and rose to 7 in 2024. In terms departmental statistical analysis, 2023 was the deadliest year in the province with a total of 18 deaths for both winter and summer initiation seasons. The highest recorded for the four-year period. The "total" data has confirmed the trend that summer death rate (37 deaths) dramatically overshadows the winter death rate (9 deaths). This depicts that over the four-year period, summer deaths contributed 80% of the total number of deaths in the province.

## **9. Deaths of Initiates in Gauteng Province from 2021 to 2024**

- 9.1. The department reported that the total number of deaths in the province from 2021-2024 was 14. Unlike other provinces where summer deaths are higher than winter deaths, Gauteng's numbers are balanced. This differs from national trends, where summer deaths are usually significantly higher. In 2021, the province recorded zero death in winter and 1 death in the summer season.
- 9.2. The departmental report has highlighted that in 2022, winter deaths increased to 2, while summer saw a slight increase to 3 deaths. Summer deaths dropped to 0 in 2023: This is the only year where winter had initiates deaths, but summer had none. Winter deaths increased from 2 in 2022 and 2023 to 3. The province's death rate has generally been lower annually, indicating that the Provincial Initiation Coordinating Committee has put in place measures and systems to enforce compliance with the Customary Initiation Act and to prevent initiates deaths.

## **10. Deaths of Initiates in KwaZulu-Natal Province from 2021 to 2024**

- 10.1. According to departmental report, the province of KwaZulu Natal had not recorded any death in previous years, however, for the first time it had recorded 1 death during the 2024 summer initiation season.

## **11. Deaths of Initiates in Limpopo Province from 2021 to 2024**

- 11.1. According to the report presented by the department, Limpopo Province recorded a total of 10 deaths over the four-year period, generally a lower death rate. Winter deaths dominate in Limpopo, with all recorded deaths occurring in the winter initiation season. There were zero death in the province during the summer initiation seasons from 2021 to 2024. In 2021, initiation was suspended schools because of COVID-19 pandemic, hence there were no death. The deaths spiked in 2022, experienced 5 deaths, the highest death rate in the 4 years, possibly due to the resumption of initiation schools after COVID-19 restrictions were lifted.
- 11.2. The departmental report has shown that there was a downward trend in winter deaths, from 5 in 2022 to 2 in 2024. In 2022, the highest number of winter deaths was 5 and decreased in 2023 to 3 deaths, suggesting improved safety measures. In 2024, there was a further decline to 2 winter deaths, maintaining the downward trend. The declining trend has indicated that Provincial Initiation Coordinating Committee has put effective measures in place to enforce compliance with the law and thus reducing the number of deaths over time.

## **12. Deaths of initiates in Mpumalanga Province from 2021 to 2024**

- 12.1. The Department reported that Mpumalanga Province recorded a total of 25 initiates' deaths from 2021 to 2024. Like Limpopo, all the 25 deaths in the province occurred in the winter initiation seasons, with zero death during the summer seasons. The department highlighted that there is an annual declining trend in winter deaths, from 13 in 2022 to 5 in 2024. In terms departmental statistical analysis, there had been zero deaths in 2021 likely due to COVID-19 restrictions. 2022 recorded the highest number of deaths (13 deaths) in winter, possibly due to the resumption of initiation schools after COVID-19 restrictions were lifted.
- 12.2. In terms of departmental analysis, 2023 recorded a significant decrease in winter deaths from 13 to 7, indicating potential safety improvements. 2024 also recorded a further decline in winter deaths from 7 in the previous year to 5, and thus maintaining the downward trend. The Provincial Initiation Coordinating Committee has attributed the annual decline in death rates from 2022 to 2024 to the measures put in place to enforce legislative compliance, medical oversight and awareness campaign programme

## **13. Deaths of Initiates in Northwest Province from 2021 to 2024**

- 13.1. The department reported that the total number of deaths recorded in the province over four years was 21, with higher death rate (16 deaths) occurring during the summer initiation season and lower death rate (5 deaths) in the winter season. No deaths were recorded in the province in 2021 for both seasons, possibly due COVID-19 restrictions. In 2022, the province recorded 4 summer deaths and zero winter deaths.
- 13.2. According to departmental statistical analysis, the deaths peaked in 2023 (11 deaths), making it the deadliest year, with 9 and 2 deaths in summer and winter, respectively. In 2024, the winter and summer deaths were equal (3 each). Summer deaths were consistently higher than winter deaths in all years except 2024. 2023 was the deadliest year, with the highest number of summer deaths (9). Winter deaths remained relatively low, peaking at 3 deaths in 2024.
- 13.3. The sharp decline in summer deaths from 9 in 2023 to 3 in 2024 suggests possible effective measures for enforcement of implementation and compliance with the Act after the establishment of the Northwest PICC in August 2023

#### **14. Deaths of Initiates in Northern Cape Province from 2021 to 2024**

- 14.1 The department reported that the province recorded 4 deaths over the four years, following the KwaZulu Natal Province that has 1 death. The Northern Cape may thus be regarded as a good practice, after KZN. All the 4 deaths from 2021-2024 occurred in the summer initiation seasons and has zero deaths in winter.
- 14.2. The number of deaths fluctuated, with the highest in 2023 (2 deaths), 1 death in 2021 and zero death in 2022. 2023 recorded 2 deaths in summer, the highest in the dataset, whilst 2024 recorded 1 death in the summer season, indicating a decline from the previous year.

The lower death rate suggests effective systems to enforce compliance with the Customary Initiation Act resulting in effective safety measures to safeguard the lives of initiates.

#### **15. Deaths of initiates in Western Cape Province from 2021 to 2024**

- 15.1. The province recorded a total of 9 deaths from 2021 to 2024, all occurring during the summer season. The province does not experience winter initiation deaths. 2021 recorded zero death for both seasons. Of the 9 deaths, four (4) were in 2022, three (3) in 2023 and two (2) in 2024.
- 15.2. The highest number of deaths in the province were recorded in the 2022 summer season (4 deaths). There is a slight decline from 4 deaths in 2022 to 2 deaths in 2024, indicating a declining trend annually. The decline of initiation deaths in 2023 and 2024 has been a positive indicator which the Provincial Initiation Coordinating Committee has attributed the decline to its effective law enforcement and safety interventions, improved stakeholder relations and awareness campaigns

## 16. Causes of Deaths and Contributing Factors

- 16.1. The causes of deaths reported by the department included among others, dehydration, septic circumcision, cardio-pulmonary failure, acute kidney injury, general body weakness, shortness of breath, gunshots, head injury (beaten with a spade), cardiomyopathy, burns, drowning and natural causes Other factors contributing to the deaths are.
- (a) **Illegal customary initiation schools**, to be addressed through effective law enforcement mechanisms
  - (b) **Non-disclosure of medical conditions of initiates** and fabrication of medical certificates (fraudulent medical certificates) by parents, initiates, medical practitioners and other role players.
  - (c). **Non-compliance with the Act** by the principals, traditional surgeons and caregivers to be addressed through joint awareness campaigns of PICCs, NIOC, Government, Traditional Leadership, NGOs and other role players on the Act to ensure that communities comply with the Act and to encourage them to report illegal activities and collaborate with law enforcement agencies
  - (d) **Inadequate participation of traditional leaders** in customary initiation within their areas of jurisdiction: to be addressed through legislative amendments to strengthen the role

and accountability of traditional leaders in customary initiation schools within their areas of jurisdiction, as well as capacity building of traditional leadership on the Act

## **17. Interventions to address Casualties of Customary Initiation**

17.1 The Department reported that several interventions have been implemented by Provincial Initiation Coordinating Committees (PICCs), National Initiation Oversight Committee (NIOC) and the Department of Traditional Affairs since the commencement of the Customary Initiation Act.

17.2. These interventions have included awareness campaigns, partnerships with SAPS, Department of Health and NGOs, strengthening of participation with the South African Police Service, training of the principals of customary initiation schools, traditional surgeons, caregivers and monitoring of initiation schools during initiation seasons by the Provincial Initiation Coordinating Committee.

## **18 Observations of the Select Committee**

18.1. The Select Committee has noted with great concern the report of the Department of Traditional Affairs regarding the deaths of initiates from 2021 to 2024 across the provinces.

18.2. The Select Committee has also noted with concern about the lack of consequences management against kidnapping of initiates, emergence and commercialization of illegal initiation schools and illegal initiation surgeons which has resulted to deaths of initiates across the provinces.

18.3. The Select Committee has further noted with great concern the report by the Department of Traditional Affairs about the causes and contributing factors of deaths of the initiates across the provinces which include the non-disclosure of medical conditions of initiates

and fabrication of medical certificates; non-compliance with the Act by the principals, traditional surgeons and caregivers once the initiation school is registered with the Provincial Initiation Coordinating Committee; inadequate involvement of communities' and families' as well as the inadequate participation of traditional leaders.

- 18.4. While acknowledging the progress made by Provincial Initiation Coordinating Committee in Gauteng (PICC) in curbing the deaths of initiates, the Select Committee raised concerns about the functionality of PICCs in Eastern Cape, Mpumalanga, and Free State Provinces.
- 18.5. The Select Committee has noted and welcomed the intervention made to mitigate the causes of deaths of the initiates and the executive undertakings made by the Deputy Minister of the Department of Traditional Affairs in ensuring zero tolerance of deaths of the initiates, engaging with the role-players as prescribed in the Customary Initiation Act and collaborating with the justice cluster to close illegal initiation schools and ensure prosecution of the illegal initiation surgeons
- 18.6. The Select Committee has noted that in terms of the Parliamentary Legislative Impact Assessment Framework, post legislative scrutiny focuses on examining the effects of a law after it has been implemented. In terms of the framework, the phase or process of conducting post legislative scrutiny may include gathering data on the law's outcomes, conducting consultations with affected groups and reviewing how the law has been effectively enforced.
- 18.7. The Select Committee has also noted in terms of the framework that the process of conducting post legislative scrutiny may include engagements with independent constitutional institutions, such as the South African Human Rights Commission (SAHRC), the Financial and Fiscal Commission (FFC) and the South African Local Government Association (SALGA), as they monitor and advise on the equitable distribution of national revenue in the realization of progressive socio-economic rights, economic development and social justice as enshrined in the Bill of Rights.

- 18.8. However, due to the number of legislations, interventions and petition before Select Committee that needed consideration and reporting to the House, proper consultations and engagements with critical role players in terms of the Customary Initiation Act (namely, National House of Traditional and Khoisan Leaders, National and Provincial Initiation Coordinating Committees) and chapter institutions, namely (South African Local Government Association, South African Human Rights Commission and Commission for Gender equality) could not be conducted in the process of conducting post legislative scrutiny on implementation of the Customary Initiation Act of 2021.
- 18.9. The Select Committee has noted the call made by the President Cyril Ramaphosa during the annual opening of the National House of Traditional and Khoisan Leaders at Parliament on 24 February 2024, for the traditional leaders to work together and come up with a clear plan to end the deaths of young men during customary initiations.
- 18.10. The Select Committee has also noted the executive efforts made by the Minister of Cooperative Governance and Traditional Affairs, Hon Velenkosini Hlabisa, at the beginning of 2025 to meet with the Commission for the Promotion and Protection of the Rights of Cultural, Religious, and Linguistic Communities (CRL Rights Commission) and the Commission for Gender Equality (CGE) to address the critical challenges surrounding customary initiation practices and develop actionable solutions to prevent future fatalities.

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

- 19.1. Having consulted and engaged the Department of Traditional Affairs on Post Legislative Impact Assessment (PLIA) of the implementation of the Customary Initiation Act of 2021, the Select Committee on Cooperative Governance and Public Administration recommends as follows:
- 19.1.1. The Department of Traditional Affairs should during the 2025 parliamentary second term provide the Select Committee with a comprehensive report on district statistical breakdown of the deaths of initiates, criminal cases opened and status on prosecution of illegal surgeons.

- 19.1.2. The National Initiation Coordinating Committee should during the 2025 parliamentary second term provide the Select Committee with mitigating strategies to deal with illegal initiation schools and the roles of the Provincial Initiation Coordinating Committees in ensuring legislative compliance to the provisions of the Customary Initiation Act of 2021.
- 19.1.3. The National House of Traditional and Khoisan Leaders and CONTRALESA should during the 2025 parliamentary second term provide the Select Committee with action plans to deal with the emergence of illegal initiation schools, illegal initiation surgeons, kidnappings, initiation deaths and proposed amendments to the Customary Initiation Act of 2021.
- 19.1.4. The South African Local Government Association should during the 2025 parliamentary second term provide the select committee with proposed mitigating strategies and amendments to the Customary Initiation Act of 2021.
- 19.1.5. The South African Human Rights Committee, Commission for Gender Equality and Commission for the Promotion and Protection of the Rights of Cultural, Religious, and Linguistic Communities should during the 2025 parliamentary second term provide the Select Committee on mitigating strategies to address the critical challenges surrounding customary initiation practices, actionable solutions to prevent future fatalities and proposed amendments to Customary Initiation Act of 2021.
- 19.1.6. The Minister of the Department of Cooperative Governance and Traditional Affairs should during the 2025 parliamentary second term provide the Select Committee with the a comprehensive report on consultations and engagements with Kings, Queens, Headsmen, Traditional and Khoisan Leaders to deal with challenges surrounding customary initiation practices, illegal initiation schools, illegal initiation surgeons, kidnappings, deaths of initiates and proposed amendments to the Customary Initiation Act of 2021.
- 19.1.7. The Law Enforcement Agencies (SAPS, SIU, HAWKS and NPA) should during the 2025 parliamentary second term provide the Select Committee with statistical

breakdown and status of criminal cases, arrests and prosecution related to illegal initiation schools, illegal initiation surgeons, kidnappings and initiation deaths across the provinces.

***Preliminary report to be noted***

## **2. REPORT OF THE SELECT COMMITTEE ON COOPERATIVE GOVERNANCE AND PUBLIC ADMINISTRATION, TRADITIONAL AFFAIRS, WATER, SANITATION AND HUMAN SETTLEMENT ON OVERSIGHT VISIT TO MAFUBE LOCAL MUNICIPALITY IN FREE STATE PROVINCE, DATED 8 APRIL 2025**

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

- 1.1 The Select Committee on Co-operative Governance and Public Administration (Traditional Affairs Water, Sanitation and Human Settlement) having conducted oversight visit to Mafube, in Free State Province, reports to the National Council of Provinces as follows:
- 1.2. On the 18<sup>th</sup> of March 2025, the delegation of the Select Committee conducted proactive oversight visit to Mafube Local Municipality. The main objective of the oversight visit was to conduct a Post- Intervention Impact Assessment (PIIA), engage and solicit the opinions of the internal and external stakeholders on the impact of the invocation of section 139 (1) (b), section 139 (5) (a & c) and section 154 of the Constitution in the Local Municipality.

### **2. Delegation of the Select Committee**

- 2.1. The delegation of the Select Committee was composed of the following members and parliamentary officials: Hon TM Kaunda (Leader of the Delegation), Hon MM Peter, Hon M Makesini, Hon K Ceza, Hon T Breedt, Hon, Dr I Scheurkogel, Hon E Nzimande, Hon B S Mabebo, Hon B Badenhorst, Mr T M Manele, Committee Secretary, Mr L Ben, Committee Assistant and Mr P Malatswa, Parliamentary Communication Officer.

### **3. Overview of Oversight Visit to Mafube Local Municipality**

- 3.1. During the oversight visit to the local municipality, the delegation of the Select Committee interacted with the Department of Cooperative Governance and Traditional Affairs, the Municipal Mayor, Chief Whips of Freedom Front Plus, Economic Freedom Fighters, Democratic Alliance and African National Congress, representative of the South African Local Government Association, South African Municipal Workers Union, IMATU, Mafube Business Forum, Namahadi Business Forum, Mafube Women Forum and the Commissioner of the South African Human Rights Commission.

### **4. Briefing by the Free State Department of Cooperative Governance and Traditional Affairs**

- 4.1. The Department of Cooperative Governance and Traditional Affairs briefed the delegation on the state of the local municipality in terms of section 139 (1) (b), section 139 (5) (a & c) and section 154 of the Constitution. The presentation focused on background, progress, institutional capacity and service delivery.

### **5. Background**

- 5.1. The Departmental Head reported that on the 15<sup>th</sup> of March 2017, the Free State Province Executive Council (EXCO) invoked section 139 (1) (b) of the Constitution of the Republic of South Africa at Mafube Local Municipality primarily for breaching section 152 and 153 of the Constitution of the Republic of South Africa.
- 5.2. The Department informed the delegation that Mr Mokhele Notsi and Mr Mojalefa Matlole were both appointed as EXCO Administrators, and their powers and functions were conferred to them and entailed in their signed “terms of reference” approved on the 17<sup>th</sup> of March 2017. The Department reported that the Member of the Executive Council (MEC) responsible for Cooperative Governance and Traditional Affairs wrote to the then Minister of Co-operative Governance and Traditional Affairs to appraise him on the Free State Executive Council’s invocation of Section 139 (1)(b) intervention at Mafube Local Municipality and sought concurrence, which was subsequently granted with certain conditionalities that:

- (a). The establishment of a Political Steering Committee between the MEC and the Minister of COGTA and supported by a constituted Intervention Technical Committee composed of officials from National COGTA, Provincial COGTA, Provincial Treasury and any other party that may be invited to it for the purpose of monitoring the progress of the interventions.
  - (b). The intervention should be terminated as soon as the municipality has implemented the relevant Financial Recovery and Service Delivery Improvement Plans and can administer its own financial affairs and exercising its executive functions.
  - (c). After intervention, the municipality should be kept under a post-intervention monitoring and supporting programme or supervision for a period of at least one year to prevent it from relapsing to its pre-intervention state.
  - (d). The powers and functions assigned to the designated EXCO Representative should be as wide as possible, so that their efforts to stabilize the municipality are not frustrated by the respective municipal council.
  - (e). A Steering Committee be established at the municipality comprising of the EXCO Representative, The Back to Basics (B2B) Task Team deployed to the Province, the Province, the Provincial COGTA, the Provincial Treasury, SALGA and the affected stakeholders, to implement the intervention plans (Financial Recovery Plan and Service Delivery Plan) and monitor progress for reporting to the MEC. This committee should sit at least once a month.
  - (f). The MEC closely monitors the intervention and regularly informs the Minister of any new developments in the municipality, and that the Department be provided with quarterly (three-month) progress reports on the intervention and close-out reports upon the revocation.
  - (g). The MEC and EXCO Representatives are, in addition to the conditions stipulated above, further tasked to resolve any challenges as part of the B2B approach.
- 5.3. The Head of the Department informed the delegation that on 11 December 2020, the Free State Executive Council resolved to revoke section 139 (1) (b) of the Constitution of the Republic of South Africa (1996) at Mafube Local Municipality with effect from the 30th of March 2021 and henceforth section 154 support in term of the Constitution was provided.
- 5.4. On the 28 April 2022, Mafube Business Forum obtained court judgement against the municipality, due to its failure to carry out its service delivery mandates, in particular sewer spillage in the main. The judgement ordered the Premier to invoke section 139 of the Constitution.

- 5.5. As a result of the court judgement EXCO invoked section 139 (5)(a) and (c) with effect from 1 June 2022. Section 139(5) (a) and (c) meant that the municipality must implement mandatory Financial Recovery Plan (FRP). The court ordered that EXCO appoint the EXCO Representative for the drafting, adoption and implementation of the FRP and furthermore oversee the implementation. Terms of reference of the EXCO Rep were gazetted in September 2022 and ended 31 May 2024.
- 5.6. Attachment of account and debt (arrears) settlements (employee benefits) (Owes more than R100 millions of Arrears) to SALGA Pension Fund and Municipal Workers Retirement Fund. The Municipality proposed a payment plan with the fund to settle the arrears, this was however not done as the fund made onerous demands in March 2024. A judgment against Mafube was handed down in 2021, which granted funds an order to attach municipal account.
- 5.7. According to the departmental report the municipality has not been able to make payments as prescribed by the law and has ben engaging the funds regularly. The two Pension Funds approached Free State High Court to seek order for payment of outstanding payments by Mafube. High Court ruled on 1 January 2025 to hold the Mayor, Exco Representative, MM and CFO liable for an amount of R14.7 million which on outstanding fund contributions.
- 5.8. The Departmental head indicated that the local municipality took the matter taken on appeal on 7/03/2025. Though the amount is not in dispute, however it is the collective view that the municipality must be held liable and not Mayor and MM and Exco Representative (who has been in the municipality for two years) and CFO (three months) for historical debt.
- 5.9. In terms of institutional capacity, the department reported that at the beginning of the intervention the municipality had all its senior management positions being vacant, however, to date the status is as follows: The Municipal Manager was appointed effective from 01 September 2024. The position of Director Community Services, Director Technical Services and Chief Financial Officer (CFO) were filled on 1st August 2024.

- 5.10. The post of Director Technical Services was referred for legal opinion, due to pending criminal charges against the incumbent. The Council subsequently, resolved that the post be re-advertised. The CFO resigned within two months (30 September 2024). The position has been re-advertised, and the recruitment process is underway. In terms of financial support, the Department Head reported that the Department of Cooperative Governance and Traditional Affairs funded the local municipality to purchase a financial system to the value of R3.1 million in March 2025.
- 5.11. In terms of service delivery, the main reasons that led to the intervention was sewer spillage in the Vaal River. The Department of Water and Sanitation funded the construction of the emergency oxidation and storage ponds in Namahadi to stop the sewer spillages into the Wilge River. This intervention addresses one of the main reasons that led to the application to put the Municipality under the current section 139 intervention.
- 5.12. The departmental head reported that the Rand Water as implementing agent has also assisted the local municipality with the refurbishment and upgrading of Frankfort / Namahadi Wastewater treatment works and the Department of COGTA supported the local municipality with the Construction of outfall sewer in Cornelia and Vaal Central is the implementing agent.

## **6. Briefing by the Mayor of Mafube Local Municipality**

- 6.1. The Municipal Mayor informed the delegation of the Select Committee that the local municipality was placed under the mandatory Section 139 (4) and (5) through a court order that was handed down by Judge Van Ryn on the 28th of April 2022. The court follows the application by Mafube Business Forum (MBF) that pleaded with the court that the municipality be placed under Section 139 as well as instructing the municipality to stop the sewer spillage that was polluting the water sources on the Vaal and Wilge rivers.
- 6.2. The Municipal Mayor indicated that the collapse of the Local Municipality came as the consequence of the intertwined factors such as the: collapse of the systems mostly in the Finance Department; lack of capacity of officials within the Finance Department, poor collection emanating from the obsolete financial system and the privatisation of electricity though the contract that was concluded with Free State Rural Maintenance in 2011.

- 6.3. In terms of organizational capacity, the Municipal Mayor reported the local municipality has filled 90% of the posts as per the approved Organizational Structure. The Municipality has since appointed the Municipal Manager in September 2024. The local municipality appointed the directors of Corporate Services and Community Services in August 2024. The local municipality also appointed the Chief Financial Officer in August 2024, but the incumbent resigned two weeks later, resulting in a now existing vacancy.
- 6.4. The Municipal Mayor informed the delegation of the Select Committee that the last two posts that are in the process of being filled are the Chief Financial Officer and Director Technical Services. Interviews have been held already, and the process is at the final stages; The appointed candidates are expected to resume their duties beginning of April or May 2025 at the latest.
- 6.5. In terms of support, the Municipal Mayor reported that the Council's Committees were not functional before the intervention and are now functional including Ward Committees. The Provincial Treasury has supported the municipality with budget assessment and the Provincial COGTA brought the following officials to the Municipality under Section 154 and 139 of the Constitution: Acting Municipal Manager, 1 official for supporting the Corporate Services, 2 officials for supporting the Finance Department, 1 official for supporting the Technical Services.
- 6.6. In terms of the review of Rural Maintenance contract (State Attorney), the Municipal Mayor reported that the national intervention has provided support in terms of Secondment of 1 specialist official from National Treasury to develop and monitor the implementation of the Financial Recovery Plan.
- 6.7. The Municipal Mayor further informed the delegation of the select committee that Free State SALGA has supported the municipality through providing various training programmes aiming at inculcating collective understanding among Councilors and officials on the legislative instruments as well as Collective Agreements regulating the operations of municipalities.

- 6.8. The Municipal Mayor informed the delegation of the select committee that the South African Human Rights Commission conducted public hearings on sewer spillages in various municipalities in the Free State Province. Mafube was not exempted from the affected municipalities that were allegedly polluting the rivers.
- 6.9. The Municipal Mayor indicated that measures have been instituted by the Free State Department of COGTA, Department of Water Services and other stakeholders to address the sewer spillages. According to the report of the municipality, a report was submitted to the Human Rights Commission indicating the steps that have been taken since the release of the report. The Municipal Mayor informed the delegation of the Select Committee that other than the vandalism of the water services infrastructure by the thugs that even went as far as killing someone who was guarding one of the water treatment plants, the municipality has also experienced some degree of sabotage by the counter revolutionary forces who threw some objects that were blocking the sewer lines.
- 6.10. In terms of court papers, the Municipal Mayor informed the delegation of the select committee that Mafube Business Forum reported that the local municipality was polluting the rivers of Vaal and Wilge water sources through spillages thus violating the fundamental human rights of Mafube community. The municipality approached COGTA (Provincial and National) to solicit their support in giving effect to the Court Order. In response to the request, the Provincial COGTA funded the construction of the Oxidation Ponds to the value of R5 000 000.00 during the 2023/2024 in Frankfort Namahadi.to mitigate sewage spillage.
- 6.11. The Municipal Mayor also confirmed the delegation of the select committee that through the MIG Grant, the municipality has funded the Tweeling Pump Station Project and, is expected to be completed by no later than 30 June 2025 to replace overhanging Sewer Pipe which was releasing sewer into the Wilge river. The municipality has also appointed a Service Provider for the refurbishment of the Wastewater Treatment Plan in Villiers.
- 6.12. The Municipal Mayor reported that through the support provided by Free State department of COGTA, the municipality has since upgraded its Financial Management System to migrate from E-Venus to Solar. The new system is mSCOA compliant; We have also received the funding for conducting data cleansing with a view to improve the integrity and quality of our billing data.

- 6.13. The Municipal Mayor informed the delegation of the Select Committee that the National department of COGTA has provided funding for the Data Cleansing Project and the municipality envisages that both the Financial Management System and Data Cleansing Program will be game changers for enhancing revenue collection as these will help minimize and/ or eliminate billing inaccuracies and through these measures the municipality hopes for the improvements in the payment of services by residents.
- 6.14. In terms of governance, the municipal mayor informed the delegation of the Select Committee that the problems engulfing Mafube are historical and in nature, dating as far as 2011. During the latest intervention 2022 to date, the intervention has yielded positive results in terms of the functionality of Council's committees, ward committees and submissions of the reports to the municipal council.
- 6.15. In terms of support, the Municipality indicated that the Provincial Treasury has supported the municipality with the budget assessment, audit processes, monitoring of the Financial Recovery Plan and data reliability. Regarding the settlement of pension funds and other major creditors, the mayor reported that the municipality is looking at a more structured intergovernmental approach with special focus on the review of long-term contracts (Rural Maintenance), litigations and review of funding models for Municipalities with historical debts and those in economical depressed.

## **7. Briefing by South African Local Government Association (SALGA)**

- 7.1. The representative of SALGA informed the delegation of the Select Committee, the 1996 Constitution does not provide specific role of SALGA in Section 139 Interventions. However, the Municipal Finance Management Act (MFMA) provides that in Mandatory Provincial Interventions arising from Financial Crisis in municipalities, SALGA (Organised Local Government): -Must be consulted prior to finalisation of Financial Recovery Plan (at least 14 days before finalisation); receive quarterly progress reports on the Intervention; and make representations to the NCOP when considering the Intervention.

- 7.2. The SALGA representative indicated that since the invocation of Sec 139 (5)(a) &(c) of the Constitution and Sec 139 (1)(a) of MFMA, an administrator has been appointed in the local municipality. The intervention included a mandatory Financial Recovery Plan as per Sec 139 of the MFMA and that the Provincial Treasury is leading this process.
- 7.3. The representative informed the delegation of the Select Committee that on the 08th of February 2023, SALGA was invited to attend an initiation meeting to introduce the Service Provider that has been appointed to develop the Financial Recovery Plan. The meeting established pillars that would be part of the workstreams to guide and support the Sec 139 process. The representative indicated that generally SALGA is in support of the Section 139 process as the municipality is in dire need of intervention as also ordered by the court.
- 7.4. The representative indicated that during the SALGA Provincial Members Assembly in 2023, it was resolved that the intervention in the local municipality should directly address the causes of the financial crisis in the municipality in the form of tangible financial resources being channelled to the municipality. SALGA representative informed the delegation of the select committee that in a meeting held on the 12th of March 2025, the municipality reported that there has been focused and customised support from various sector departments to attend to immediate issues (e.g. DWS project for Vaal River spillage).
- 7.5. In terms of the impact of section 139, the SALGA representative indicated that the local municipality has made improvement on reporting, filling of senior management posts and political stability. The representative of SALGA indicated that the challenges facing the local municipality are historical ranging from financial viability, governance, systems and aging infrastructure. The representative of SALGA urged that the intervention should assist the local municipality with the review of the contract of Rural Maintenance so that the local municipality could be able to collect revenue from electricity.

- 7.6. The SALGA representative further urged for the municipality to be assisted with payment of 3rd Party as the municipality is owing more than 200 million to the pension fund. The representative urged further that the local municipality needs further support to deal with litigation costs which at times result to the attachment of the bank account
- 7.7. In terms of financial viability, SALGA representative indicated that the local municipality has had qualified audit opinions over the past 4 audit periods with no material improvements. The municipality has extremely low revenue collection standing at 20% currently which threatens the financial sustainability of the municipality. the municipality is not collecting revenue on electricity and is receiving conditional grants from different sector departments to assist in implementing infrastructural projects to provide the basic level of service.
- 7.8. SALGA representative informed the delegation of the Select Committee that presently, the local municipality has 3 680 registered indigent households out of 16 460 total households. This constitutes to 22% of the total households in Mafube LM which is exactly equal to the average indigent percentage in South Africa, based on the 2011 Census.
- 7.9. In terms of governance, SALGA representative informed the delegation of the select committee that the local municipality has remained stable and that council meetings have been setting to consider reports for the business of the municipality.
- 7.10. The representative of SALGA indicated that no motions of no confidence have been recorded for the term. The local municipality has made progress in terms of the establishment and functionality of Council Committees, (MAYCO & MPACs etc.), convening of approved council meetings, passing of budgets as per legislative requirements, establishment and functionality of ward committees and compliance with the Code of Conduct for Councillors.
- 7.11. In terms of institutional capacity, SALGA representative reported that although the municipality had challenges of vacant senior management for an extended period however, all Senior Manager positions have now been filled.

- 7.12. In terms of section 154 support, the representative of SALGA informed the delegation of the Select Committee that the local municipality has been provided with support and assistance in the preparation of financial statements, asset management, reconciliation of billing system with General valuation Roll and records management system.

## **8. Presentation by the South African Human Right Commission (SAHRC)**

- 8.1. The Commissioner of the South African Human Rights Commission briefed the delegation of the Select Committee on the inquiry report into the state of service delivery at local government level in the Free State Province. The presentation focuses on the findings and recommendations made by the SAHRC in its Inquiry Report to Mafube Local Municipality.
- 8.2. The Commissioner indicated that the SAHRC through its Free State Provincial Office (FSPO) received a myriad of economic and social rights-related complaints. The complaints spanned a wide range of critical issues: lack of access to water, electricity challenges, housing challenges, sanitation challenges, refuse collection challenges; inadequate infrastructure for sewage treatment; and dilapidated roads. To respond to the complaints the Commission instituted an Inquiry. The Inquiry was conducted in terms of section 13(3) and 15(1) of the South African Human Rights Commission Act, 40 of 2013 from 25 to 28 March 2024.
- 8.3. The objectives of the Inquiry were to: assess the state of service delivery within local municipalities in the Free State at a systemic level, investigate the drivers of the deteriorating state of service delivery from a multi-stakeholder perspective. investigate the contribution of the various municipal and provincial actors to the current state of service delivery within local municipalities in the Free State. make findings, and recommendations aimed at addressing service delivery challenges in the municipalities.
- 8.4. The Commissioner informed the delegation of the Select Committee that the SAHRC found that Mafube Local municipality is in violation of the provisions of the National Water Act and NEMA for polluting the environment and water sources.
- 8.5. The SAHRC further found that the municipality is in violation of sections 10, 24(1)(b) and 152 (1)(d) of the Constitution and section 28(1) of NEMA for failing to adequately address the chronic sewage spills in its authority, particularly in the Wilge and Vaal River.

- 8.6. The municipality acknowledged that sewage spills are a challenge and pollution of water sources has taken place due to the malfunctioning of the WWTWs in Frankfort. The SAHRC finds that the municipality has no plan in combating the sabotage of infrastructure, which has resulted in sewage spills.
- 8.7. The SAHRC found that the municipality is not adequately removing refuse and there are illegal dumping sites in the municipality close to the Wilge river, resulting in pollution to the river. The SAHRC finds that the quality of potable drinking water does not meet the blue drop standard due to the municipality lacking water testing facilities.
- 8.8. The SAHRC found that the municipal infrastructure is old and dilapidated. The municipality has not furnished the SAHRC with its plans to access infrastructure grants to improve the aging infrastructure.
- 8.9. The SAHRC found that the municipality does not have a revenue collection process, and it blames civil society organisations. It alleges that the organisations encourage residents to refuse to pay for services rendered by the municipality. Thus, the municipality has financially collapsed due to poor management and the privatization of electricity provision.
- 8.10. The SAHRC found that the high vacancies in the municipality have resulted in ineffective service delivery. The SAHRC finds that the municipality has had several negative audit outcomes for not submitting its audit reports timeously, and the municipality is currently a year behind with its audit reports. The MM submitted that he has sought the intervention of Provincial Treasury with a financial recovery plan.
- 8.11. The SAHRC recommended that the municipality must within three (3) months of receipt of this report provide the SAHRC with a comprehensive report on how it plans to deal with the sewage spills into the Wilge and Vaal Rivers and further provide interim measures to mitigate these spills.
- 8.12. The municipality must within three (3) months of receipt of this report furnish the SAHRC with a comprehensive report on how it plans to refurbish the old and dilapidated infrastructure. The municipality must within three (3) months of receipt of this report submit to the SAHRC a report on the progress of the filling of vacancies within the municipality, particularly in the service delivery units.

- 8.13. The report should also indicate how many of the positions are still vacant, the reasons thereof and anticipated dates of filling the vacancies. The municipality must within three (3) months of receipt of this report submit to the SAHRC a comprehensive council approved plan to enhance sustainable revenue collection within the municipality.
- 8.14 The municipality must within three (3) months of receipt of this report submit to the SAHRC a comprehensive council approved security plan aimed at combating infrastructure sabotage within the municipality.

## 9. Opinions of the Chief Whips of Political Parties

- 9.1. The representative of the **Economic Freedom Fighters** noted with great disappointment the implementation of section 139 (1) (b) of the constitution and the assistance required as per section 154 of the Constitution. The representative indicated that the municipality has been under section 139 since 2018. The representative raised concerns that people who are deployed to assist the municipality with administration turn to develop interest to lead the municipality.
- 9.2. The representative indicated the local municipality has administrators after the others, but the situation remains the same. The representative further raised concerns about unpaid salaries, unpaid pension funds, unpaid medical aid and overall poor service delivery to the community of Mafube Local Municipality.
- 9.3. The representative argued the application of section 139 (1) (b) mainly focuses on the symptoms rather than the underlying issues that the municipality faces and the provincial support is often not enough, as it mainly focuses on governance failure than dealing with the root cause the challenge the municipality is faced with such as the removal of Rural maintenance as the electricity supplier for the municipality and insourcing of security guards rather than the issuing of contracts to private companies that costs over 2 million rands for security purposes.
- 9.4. The representative indicated that the most disturbing factor around section 139 is that the intervention can have negative impacts on financial management, where the provincial government may take control of the municipality's finances, leading to lack of transparency and accountability.

- 9.5. The representative of the EFF advocated alternative solutions that prioritize collaborative support and capacity building for municipalities and provision of technical support and resources to help municipalities to develop their own capacity.
10. The representative of the **Freedom Front Plus** raised concerns about the state of the local municipality and the intervention since 2022. The representative indicated that for the first time the intervention team spoke to the municipality, councilors were all impressed because all that was said was exactly what the municipality needed to change. The representative complained that municipal workers have failed to make extra effort to change the unpleasant situation in the municipality.
- 10.1. The representative raised concerns about chaos in the municipal finance department, poor 10% and 20% revenue collection, poor billing system. On matters related to service delivery, the representative of the Democratic Alliance raised concerns about the non-provision of water due to dilapidated infrastructure in Frankfort, Tweeling and Cornelia. The representative also raised concerns about sewage spillage running in the street and into the Wilger and Vaal River. The representative complained about the impact of interventions.
11. The representative of the **Democratic Alliance** raised concerns about the inability of the local municipality to pass the budget, revenue collection, providing basic services, and financial crisis. The representative welcomed the intervention in terms of section 139 (5) (a & c) but raised concern that the recovery plan developed by the National Treasury was based on inaccurate information on electricity and contract with Rural Maintenance.
- 11.1. The representative of the **Democratic Alliance** further raised concern that when the matter was taken to court, the National Treasury was unable to prove that the electricity contract between the local municipality and rural maintenance was illegal. The representative raised concerns about lack of financial management system, consequence management, failure of the employees to provide the residence with proper municipal accounts, poor 20% revenue collection, dependency on conditional grants, failure to fully utilize MIG grant due to contract entered late, lack of progress reports on the implementation of intervention

12. The representative of the **African National Congress** shared an opinion on the state of the Local Municipality. The representative acknowledged that progress has been made in respect of previous section 139 interventions and support provided by the Provincial Department of Cooperative Governance and Traditional Affairs. While acknowledging the support provided in terms of the deployment of technical team, the representative emphasized the need for the national and provincial treasury to have provided financial support in terms of section 154 of the constitution to deal with municipal challenges related to revenue collection.
- 12.1. The ANC representative further acknowledged the intervention progress made in terms of the development of the financial recovery plan, and the deployment of specialist by the National Treasury to monitor the implementation of the financial recovery plan. The ANC representative welcomed the support provided by the department of cooperative governance and traditional affairs to assist the local municipality in sourcing the new financial management system for data cleansing and effective revenue collection. The ANC representative appealed to the delegation of the Select Committee to lobby for the review of the funding model for local government and assistance to the local municipality to pay for pension funds.
13. **Opinions of Internal and External stakeholders**
  - 13.1. The representation of IMATU indicated that the implementation of Section 139(1)(b) has created uncertainty in our Municipality. We are concerned about our job security, and the lack of communication by our principal (council and management) and that has exacerbated the situation as we are getting support from Cogta and Salga. However, the council neglects that as they do as they please. Cogta seconded the administrators who then developed an interest in our municipality instead of implementing the Financial Recovery Plan
  - 13.2. The representative of the union informed the delegation of the Select Committee that It was during the time of Mr Notsi and Matlole then now Mr Mkhaza and Mr Lepheane in that Cogta did not issue a concurrence letter for the appointment of Mr Lepheane, However the Council insisted on placing him. Can Cogta explain to the workforce how it sanctioned the application of Mr lepheane shortlisted his application and ultimately endorse the appointment?

- 13.3. Secondly can today be the day when we get to be clarified about this concurrence letter. Was Council ever guided on his appointment when they insisted on placing him? Are you aware that his appointment resulted in the division within our Municipality, among Council and Labour Unions. Furthermore, the Municipality financial struggles have resulted in the inconsistency of salary payments and the non-payments arrangement of the outstanding Pension Fund Dept for easing of employees' benefits.
- 13.4. The Union representative reported that the local municipality is currently operating with two different Organizational structures, the old and the current one which has not gone through proper process for approval as per Municipal Staff Regulations and Financial Recovery Plan which forbids bloated financial structure that is currently containing the Municipality.
- 13.5. In the opinion of the Union representative, the municipality has failed to comply with Municipal staff Regulation, Main Collective Agreement, Financial Recovery Plan and irregularly placed and seconded employees without following HR policies and Recruitment process.
- 13.6. The union representative complained that IMATU members have been unfairly treated and suspended and that as organized Labour Union, they previously had a different view on the appointment of the current Municipal Manager, in that MEC of Cogta did not even issue a concurrence for that appointment, However the Council, in support of the other trade union, keep on appointing the Municipal Manager and Directors. Which resulted in the harsh treatment of IMATU Representative and members.
- 13.7. The union representative called for a thorough investigation into theft and corruption involving prominent municipal officials and leaders, irregular allocation of tenders, municipal plots, non-payment of third parties and delays of Salary Payment: The municipality has failed to pay third parties and has delayed salary payments, causing financial hardship for employees and service providers.

#### **14. The representative of SAMMU**

- 14.1. The representative of SAMMU tabled an opinion on the state of the local municipality in terms of section 139. The representative urged that section 139 invoked by the Department of Cooperative Governance and Traditional Affairs did not assist them.

- 14.2. The union representative complained that they are almost 10 years but still find themselves not getting the salaries on time. The union representative called for the disbandment of the intervention office of the Department of Cooperative Governance and Traditional Affairs as according to their assessment the departmental officials serve their self-interest and consequence management doesn't apply to them as they will be recircled to other municipalities.
- 14.3. The representative of the Union informed the delegation of the Select Committee that SAMMU is still awaiting the report of Mr JJ Matlole who was paying himself R250 000 per month. The representative of SAMMU raised concerns about non-payment of pension funds and impact low staff morale, loss of benefits like 2 pots system, use of pension as a guarantor to secure housing, unfunded wellness programmes. Owing to SALA /MWRP the two pension funds over hundred million by Mafube Municipality from the year 2012.
- 14.4. The Union representative called for the review of the contract of Rural Maintenance as they believe it was fraudulently drafted and signed as those who were signing on behalf of Mafube Municipality (senior officials are now under the employment of the same Free State Rural Maintenance). The Union representation also called for Free State Rural Maintenance to reveal its shareholders as it was presented as a Public, Private and Partnership, give the bank account it pays royalties to as it claims it pays royalties.
- 14.5. The representative of SAMMU called also for the termination of Water tankers as they are wasteful expenditure that leads to corrupt activities. The municipality pays R18 000 000 quarterly for the water challenge that can be addressed with 5 million once off. The union further called for the provision of tools of trade more especially assistance on fleet for refuse removal.
15. **The representative of Mafube Business Forum (MBF)**
- 15.1. The representative of MBF indicated that the intervention at the municipality is not as indicated in the program distributed before and during the meeting of 18 March 2025, in terms of section 139(1)(b). It is rather a section 139(4) and (5) intervention. This denotes a mandatory provincial obligation ordered by the Bloemfontein High Court on 28 April 2022. It is thus clearly not discretionary but a must.

- 15.2. The representative informed the delegation of the select committee that 2 workshops were held during October and November 2019 where the MBF engaged with the Local Municipality, Fezile Dabi District Municipality, CoGTA (National and Provincial) and Treasury (National and Provincial). During December of that year, an agreement was drafted, termed the “Mafube Stakeholders’ Compact” and widely circulated among the participants with the implementation thereof scheduled for January/ February 2020. Foreseen to be “a blueprint for struggling municipalities, the signing day was to be highly publicized and scheduled for 24 January 2020. This did not happen because while in the process of further arrangements, all communication from all state participants unexpectedly ceased without reasons given, answering phone calls, SMSs, WhatsApp’s and e-mails.
- 15.3. The representative of MBF informed the delegation of the Select Committee that after the High Court judgement of 28 April 2022 and the appointment of the Administrator (Provincial Exco Representative), MBF again engaged with the municipality through the Provincial Exco Representative (PER). This culminated in yet another agreement and an offer from MBF to assist municipality with collection of municipal charges and to encourage the community to resume payment to the municipality. A joint statement was issued requesting the community to support the initiative which was to commence on 1 September 2022.
- 15.4. The representative of the MBF indicated that at the request of the Provincial Executive Representative, a meeting was arranged with the Premier and the MEC for CoGTA to discuss the lack of support provided by the provincial EXCO. After this meeting, held on 30 August 2022 at the Premier’s office, once again, communication was unilaterally stopped without providing reasons. The PER did not respond to requests for further meetings and did not answer his phone. The PER did not abide by his Terms of Reference and went so far as to discredit and dismiss the efforts of MBF during a Council meeting.
- 15.5. The representative of the MBF informed the delegation of the Select Committee that the National Treasury in the form of the Municipal Financial Recovery Service (MFRS) was in the meantime requested by the Finance MEC to prepare a Municipal Financial Recovery Plan (MFRP). This took an inordinate amount of time and the Draft MFRP was only made available to MBF on 15 June 2023 – more than a year after the High Court Order and contrary to subsection 144 (3) of the MFMA, and the High Court Judgement of 28 April 2022, ordering that the terms of the existing recovery plan must be considered.

- 15.6. The representative further informed the delegation of the Select Committee that MBF responded with comments to the Draft MFRS. The representative raised concerns that MBF, as an important stakeholder with proven bona fides, had been excluded from all discussions and consultation, and were not afforded an opportunity to be of service to the MFRS.
- 15.7. The representative of MBF complained that the MFRS had alleged that MBF are sabotaging the municipality's efforts to collect revenue by urging residents and businesses not to pay for municipal services. This allegation is in addition to the contention of the MFRS that the contract of Rural Free State (RFS) as electrical service provider should be reviewed.
- 15.8. This was challenged by RFS in the High Court and lead to an order compelling the MFRS to provide reasons for their pronouncements. In the view of MBF, the conduct of the provincial government by encouraging and financing MLM in their actions against RFS is questionable. What followed the cessation of communication mentioned above was more time spent on litigation and our case was again heard in the Bloemfontein High Court on 11 October 2024. This time we asked the High Court to consider our charges of Contempt of Court with the maximum penalty against the Premier, MEC, Mayor, Municipal Manager and the Administrator.
- 15.9. The application was brought to enforce compliance, and the judgement is expected to be delivered soon. At the hearing of 18 March 2024 in Frankfort, the Mayor and other participants insisted on perpetuating the falsehood that MBF influences residents, farmers and business owners to not pay municipal charges. This also reflects in a report to the SAHRC in February of this year. MBF believes that this was sufficiently dealt with in our High Court submission and caution the mayor and others to take heed of our letter dated 18 July 2024 addresses to the municipal manager, of which copies were forwarded to the Mayor and the MEC of CoGTA.
- 15.10. The representative of the MBF raised concerns about the reigning lack of transparency and poor communication from MLM as the greatest sources of frustration for MBF and the community. The representative urged that Council meetings continue to be held secretly and correspondence from inter alia MBF is ignored. MBF have recently again sent reminders of 21 urgently awaited responses but to date and despite promises, no such responses have been forthcoming.

- 15.11. The representative of the MBF complained that Mafube Local Municipality (MLM) often publish dates for public meetings which are simply not attended by MLM. As recently as 21 February of this year, a public notice was published, inviting comments from the community on the Annual Report, but to date and despite repeated requests, MLM have still not been able to furnish this vital document. The representative of the MBF complained that contrary to what is stated in the public notice, the Annual Report was also not available on the MLM website.
- 15.12. The MBF representative also complained about absence of by-laws in place at Local Municipality that have been properly promulgated and gone through the public participation process. The representative indicated that following repeated requests from MBF, the management of the local Municipality could only produce a few draft- and provincial standard by-laws that have not been adopted by the Council in terms of section 14 of the municipal Systems Act.
- 15.13. The representative of MBF complained further that the Council of Mafube Local Municipality is in a habit of approving unfunded budgets contrary to section 18 of the MFMA and the Terms of Reference<sup>5</sup> of the PER. At the most recent budget meeting held on 23 May 2024, an unfunded budget was again approved in spite thereof that the requirements of section 160 of the Constitution were not met in terms of a quorum.
- 15.14 According to the representative of MBF, service delivery is virtually non-existent within Mafube Local Municipality, and public infrastructure has through lack of maintenance been allowed to crumble, pilfered and vandalized. The MBF representative said that they disagree with others that the infrastructure at MLM is “old and dilapidated.” Water Treatment- and Wastewater Treatment Plants are all relatively new. The representative argued that in terms of the Blue Drop- Green Drop- and No Drop Reports, and more recent reports of the Department of Water and Sanitation, the greatest issue at water related infrastructure remains the low morale of staff, lack of oversight and poor leadership of the municipal management. Water supply holds a high risk to the community and sewage still pollutes our water sources.

- 15.15 The MBF representative informed the delegation of the Select Committee that despite the judgment of almost 3 years ago, to “cease immediately”, sewage pollution of water sources is still at the order of the day. To mitigate against the pollution issue at the Namahadi Sewerage Pump Station, the Local Municipality was assisted by the Department of Water and Sanitation and awarded a conditional grant of R5-million by provincial department of CoGTA for the construction of an emergency bypass pond. Despite the urgency of the matter and the peril of non-compliance with the High Court order, the management of the local municipality seized the funding for paying salaries, and the appointed contractor eventually left the construction site after not being paid. The site now stands incomplete and overgrown with weeds.
- 15.16. The MBF complained that Mafube Local Municipality is still making extensive use of water tanker contractors, and the decision is questionable since Municipality possesses 2 water tanker trucks of their own and therefore the expenditure for July 2024 of R4 685 824 48 cannot be justified. The recommendations of MBF as it relates to water provision to the community, have been disregarded and their request for access to municipal infrastructure to do professional assessments have not been responded to. The representative informed the delegation of the select committee that during December 2024, MBF made an application for funding to Infrastructure SA on behalf of MLM. It is disappointing that when the support of MLM was requested for this initiative, MLM chose not to respond.
- 15.17 MBF still insist on the implementation of our “Mafube Stakeholders Compact” which, after 5 years of toing and froing, remain relevant and the basis for a Public Private Community Partnership (PPCP). After a long period of non-interaction, it was pleasing that the Municipal Manager reached out to our organization and asked to meet with our management team. MBF have proposed several initiatives which are currently being considered for implementation.
- 15.18 These initiatives are intended to re-establish trust in the municipality and thereby gradually restore revenue collection with the aim of eventually reaching the Treasury-recommended rate of 95%. The first such initiative is MBF’s “My Town” project<sup>25</sup> which is aligned with CoGTA’s “Small Town Regeneration Strategy”. This initiative will not burden the Municipality financially and by ensuring widespread participation, is sure to make an almost immediate and substantial impact.

- 15.19. MBF agreed to propose a series of by-laws for adoption by the Municipal Council and to drive the public participation- and promulgation process. MBF view this as essential to regain the trust of the community in their municipality. With the serious water supply issues experienced by the community, MBF recommend that municipality should be proactive and appoint a Water Service Provider (WSP) as envisaged in proposed amendments to the National Water Act which entail splitting the functions of Water Services Authority (WSA) from that of a WSP. According to the Auditor General's Report of 2023 financial loss on water provision for the applicable financial year amounted to R23 508 203 (2022: R18 178 162) which is clearly not sustainable.

**16. The representative of Zithande Women Organisation**

- 16.1. The representative of Zithande Women Forum raised concerns about the constitutional performance of the Councilors within the Mafube Local Municipality. She complained that the municipal councilors' failures to take care of the community. Some of the service delivery concerns raised by the representative are the installation of taps without the provision of water.
- 16.2. The representative complained about the appointment of administrator, non- provision of water, lack of electricity, cost of water tanks, lack of accountability on corruption, stealing of Municipal money, lack of change, Councilors serving the community without pride and the local municipality being under administration for many years,

**17. Namahadi Business Forum**

- 17.1. The representative of Namahadi Business Forum raised concerns about poor revenue generation and municipal dependence on grants. The representative complained that the local municipality is unable to provide electricity due to the failures of Free State Rural Maintenance. The representative called upon the delegation of the select committee to assist the local municipality in termination of contract with the Free State Rural Maintenance because of the lack of benefits by the local municipality. The representative also called for support from national government to assist the local municipality.

## 18. **Observations of the Select Committee**

- 18.1. The Select Committee has noted with great concerns the report of the South African Human Rights Commission which has found that the local municipality has been in violation of sections 10, 24(1)(b) and 152 (1)(d) of the Constitution and section 28(1) of NEMA for failing to adequately address the chronic sewage spills in its authority, particularly in the Wilge and Vaal River.
- 18.2. The Select Committee has also noted with concerns the failure of the local municipality to update the indigent registry, poor billing system, lack of consequence management, high number of outstanding creditors, non- payment of 3rd Party and salaries, ICT problem, lack of capacity to take over the electricity supply, lack of revenue collection strategy, failure to develop action plans to deal with the recommendations of the Auditor General.
- 18.3. The Select Committee has further noted with great concerns the lack of public participation and failure to implement the stakeholders Compact agreed to in 2019, failure to adopt by laws to ensure that the ultimate goals of Municipal Finance Recovery Plan (MFRP) in terms of the four pillars of sustainability are achieved for the benefit of the municipality, poor financial management and inability to spend MIG grants which was re-gazetted and allocated to the Fezile Dabe District Municipality, non-compliance with subsection 144 (3) of the MFMA, and High Court Judgement of 28 April 2022, ordering that the terms of the existing financial recovery plan must be updated.

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

- 19.1. Having conducted an oversight visit to Mafube Local Municipality, the Select Committee recommends to the National Council of Provinces as follows:
  - 19.1.1 That NCOP notes the Post-Intervention Impact Assessment oversight visit conducted to Mafube Local Municipality to assess the state of the municipality in terms of section 139 (1) (b), section 139 (5) (a& c) and section 154 of the Constitution.

- 19.1.2. That the Chief Financial Officer of Mafube Local Municipality develops a Cost Containment Plan (including infrastructure maintenance, fruitless and wasteful expenditures, reduction of expenses, improving operational efficiencies) and submit to the Select Committee on Cooperative Governance and Public Administration within 14 days.
- 19.1.3. That the Mayor of Mafube Local Municipality convenes a special council meeting to consider and adopt the Cost Containment Plan by the Chief Financial Officer.
- 19.1.4. That the Mayor of Mafube Local Municipality develops a stakeholder's engagement plan to quarterly engage with the Business Forums on service delivery related matters including investment in local economic development
- 19.1.5. That the Municipal Manager should develop action plan to deal with the findings and recommendation of the report of the South African Human Rights Commission and table to the council for consideration and adoption.
- 19.1.6. That the Free State MEC of the Department of Cooperative Governance and Traditional Affairs should provide quarterly reports on the implementation of section 139 (5) (a&c) of the Constitution in local municipality including support in terms of section 154 of the Constitution
- 19.1.7. That the Free State MEC of the Department of Cooperative Governance and Traditional Affairs in collaboration with South African Local Government Association should provide support to the Mafube Local Municipality in developing action plan to deal with the findings and recommendations of the report of the South African Human Rights Commission and Auditor-General of South Africa
- 19.1.8. That the Select Committee on Cooperative Governance and Public Administration to engage during the 2025 parliamentary second term, the Minister of the Department of Cooperative Governance on funding model for local government and tabling of Intergovernmental Monitoring Support and Interventions Bill, 2025.

- 19.1.9. That the Select Committee on Cooperative Governance and Public Administration engage during the 2025 parliamentary second term the Minister of the Department of Water and Sanitation on the implementation of section 63 intervention in terms of the Water Service Act of 1997 in Free State Municipalities specifically and generally across the provinces.
- 19.1. 10 That the Select Committee on Cooperative Governance and Public Administration to engage during the 2025 parliamentary second term the National Treasury on the state of section 139 (5) (a & c) interventions in municipalities specifically in the Free State and generally across the provinces including support in terms of section 154 of the Constitution.
- 19.1. 11. That the Select Committee on Cooperative Governance and Public Administration engage during the 2025 parliamentary second term the Municipal Infrastructure Support Agency on the technical support provided to municipalities specifically in Free State and across the provinces.
- 19.1.12. That the Select Committee on Cooperative Governance and Public Administration engage during the 2025 parliamentary second term the Free State MEC of Department of Cooperative Governance and Traditional Affairs and Free State Rural Maintenance to discuss the nature of the contract, benefits and social responsibility programmes to the local Municipality.

***Report to be considered.***

### **3. REPORT OF THE SELECT COMMITTEE ON COOPERATIVE GOVERNANCE AND PUBLIC ADMINISTRATION, TRADITIONAL AFFAIRS, WATER, SANITATION AND HUMAN SETTLEMENT ON OVERSIGHT VISIT TO KOPANONG LOCAL MUNICIPALITY IN FREE STATE PROVINCE, DATED 8 APRIL 2025**

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

- 1.1 The Select Committee on Co-operative Governance and Public Administration (Traditional Affairs Water, Sanitation and Human Settlement) having conducted oversight visit to Kopanong Local Municipality in Free State Province, reports to the National Council of Provinces as follows:
- 1.2. On the 20<sup>th</sup> of March 2025, the delegation of the Select Committee conducted proactive oversight visit to Kopanong Local Municipality. The main objective of the oversight visit was to conduct a Post- Intervention Impact Assessment (PIIA), engage and solicit the opinions of the internal and external stakeholders on the impact of the invocation of section 139 (1) (b), section 139 (5) (a & c) and section 154 of the Constitution in the Local Municipality.

#### **2. Delegation of the Select Committee**

- 2.1. The delegation of the Select Committee was composed of the following members and parliamentary officials: Hon TM Kaunda (Leader of the Delegation), Hon MM Peter, Hon M Makesini, Hon K Ceza, Hon T Breedt, Hon, Dr I Scheurkogel, Hon E Nzimande, Hon B S Mabebo, Hon B Badenhorst, Mr T M Manele, Committee Secretary, Mr L Ben, Committee Assistant and Mr P Malatswa, Parliamentary Communication Officer

### **3. Overview of Oversight Visit to Kopanong Local Municipality**

- 3.1. During the oversight visit to the local municipality, the delegation of the Select Committee interacted with the Department of Cooperative Governance and Traditional Affairs, the Municipal Mayor, Chief Whips of Political Parties, representative of the South African Local Government Association, and the Commissioner of the South African Human Rights Commission

### **4. Briefing by the Free State Department of Cooperative Governance and Traditional Affairs**

- 4.1. The Head of the Department of Cooperative Governance and Traditional Affairs the intervention by the Free State Government in Kopanong Municipality has seen the invocation of Section 139(1)(b) of the Constitution, read with section 63 of the Water Services Act by Exco on 17 May 2023. The intervention was primarily necessitated by the breach of Sections 152 and 153 of the Constitution, 1996 dealing with the provision of services to communities in a sustainable manner and giving priority to the basic needs of communities.
- 4.2. The HOD indicated that the adverse conditions which triggered the intervention was the inability of the Municipality, as water services authority, to carry out the water services mandate as contemplated in terms of the Water Services Act, 1997. Additionally, the intervention was prompted by the severe financial distress of the Municipality which was occasioned by the inadequate/non-existent revenue collection which further resulted in the Municipality's inability to meet its financial obligations which included delayed payment of salaries to employees. The EXCO Representative expected to submit monthly reports on the progress of the intervention to the MEC: Cooperative Governance & Traditional Affairs.
- 4.3. The Executive Council on 5 February 2025, identified the need to strengthen the intervention at Kopanong and seconded a new Exco –Lead and other officials to the municipality. The former Exco-lead and one other official who were seconded to Kopanong were also withdrawn.

- 4.4. The purpose of the intervention was to assist the Municipality to meet its Executive and Legislative obligations. Kopanong Municipality owes Vaal Central Water Board R800 million for bulk water supply. The then Minister of Water and Sanitation, requested the Provincial Government to invoke section 139 in Kopanong, as a mechanism to assist Municipality to maintain National standards. The Department of Water and Sanitation undertook to assist the Municipality to meet their financial obligations to Vaal Central Water.
- 4.5. The Municipality committed itself to make payment plans with VCB. Kopanong unfortunately cannot meet the financial obligations to Vaal Central Board, because of the low revenue base of the Municipality, in addition currently the Bank Account of the Municipality is attached by their creditors, because of outstanding debts. In November 2024, the National Treasury gave notice to the municipality that they intended withholding its equitable share for December 2024.
- 4.6. After intervention by MEC of COGTA, the equitable share was released on condition that the municipality prioritize payment of Vaal Central, Pension funds, SARS, other 3rd parties and Eskom. Municipality provided proof of payments to COGTA after equitable share was released
- 4.7. The Department of Cooperative Governance & Traditional Affairs has assisted with payment of the amount of R6 million to the Vaal Central Water Board and the 30% water restriction was lifted and water supply restored to 100%. Backlog on audit by AGSA: A catch-up strategy was embarked upon for submission of the Annual Financial Statements for both 2021/2022 and 2022/2023 financial years. The municipality currently does not have any unaudited financial year.:
- 4.8. Through assistance of Department of COGTA, the State Attorney is at an advance stage to file the application in the High Court seeking nullification of the reversal of 55 potentially illegal promotions. The vacant positions of Municipal Manager and Senior Managers would be re-advertised as the process was previously declared invalid due to non-compliance with the Local Government Systems Act 2000 (Act No. 32 of 2000), Local Government Regulations on Appointment and Conditions of Employment for Senior Managers.

- 4.9. The HOD informed the delegation of the Select Committee that Kopanong Local Municipality entered into a Memorandum of Understanding with Vaal Central Water Board to facilitate the finalization for the upgrade of Water Treatment Works (WTW) from 2ML to 4ML in Jagersfontein which ensured the completion of the project. The Vaal Central Water is playing a crucial role to assist the Municipality to rehabilitate its infrastructure. CoGTA has re-Gazetted Kopanong's MIG allocation to disburse it to the Xhariep District Municipality to implement to ensure completion of infrastructure projects, including Upgrading of 3km Sewer Pipeline and Pump station in Trompsburg Upgrading of Sports Facility in Phillipolis and refurbishment of Wastewater Treatment Plant in Edenburg
- 4.10 The Municipal Demarcation Board has, in Circular 2 of 2024 dated 4 March 2024, confirmed the cases in terms of Section 21 of the Municipal Demarcation Act, 1998. The municipal boundary of Kopanong Local Municipality has been re-determined to exclude the towns of Fauriesmith, Jagersfontein, Reddersburg and Edenburg from Kopanong Local Municipality.
- 4.11. This process will result in the creation of a new municipality after the 2026/7 local government elections. The Department of CoGTA has appointed a Transformation Committee and Transformation manager to oversee all processes associated with the re-determination of these outer boundaries and establishment of a new municipality.

## **5. Briefing by the Mayor of Kopanong Local Municipality**

- 5.1. The Municipal Mayor briefed the delegation of the Select Committee on the state of the local municipality. The presentation focused on the background, current interventions, governance, challenges, service delivery, critical issues for support and recommendations.
- 5.2. The Municipal Mayor reported that Kopanong Local Municipality is currently under Provincial Executive Council intervention in terms of Section 139(1)(b) and Section 154 of the Constitution of the Republic of South Africa, Act 108 of 1996, read with Section 63 of the Water Services Act. In terms of Section 139(1)(b) of the Constitution read with Section 63 of the Water Services Act, Provincial Executive Council (ExCo) appointed Mr. Tembile Lobe

on 17 May 2023 as its Representative to Municipal Council. Subsequently Mr Mopeli Mohale was appointed the new ExCo representative.

- 5.3. In terms of Section 154, the Department of COGTA seconded Senior Managers to Kopanong Local Municipality to support and strengthen the municipality to execute its Executive powers and functions. Mr BC Mekomela as Acting Municipal Manager, Mr CK Pitso as Acting Director Corporate Services, Mr P Senyane as acting Chief Financial Officer, Mr MM Madolo as Acting Director Technical Services and Mr TF Deeuw as Acting Director Community Services.
- 5.4. The Municipal Mayor informed the delegation of the Select Committee that Kopanong Local Municipality is an Executive Committee Municipal Council consisting of 17 Councillors. Council has the following Sub- Committees: Executive Committee, Section 80 Committees, MPAC, Audit Committee and LLF. The Municipality has an approved organisational structure, which is an entirely bloated and costing the Municipality +/- R13 million and all Senior Managers positions have been vacant for the longest period.
- 5.5. The number of officials that are occupying positions without the requisite skills. Due to bloated structure and high salary bill, the Municipality is unable to fill critical vacant positions; Non-payment of related benefits, the Municipality is unable to retire employees who are at the pensionable age.
- 5.6. The Municipality has developed Workplace Skills Plan, however, is unable to implement due to redirection of funds intended for Skills Development for salaries. The Municipality's inability to meet its financial obligations, subjects by its creditors, exposes it to a lot of litigation.
- 5.7. Kopanong Local Municipality is serviced by Vaal Central, and its under 30% restriction for all 9 Towns. The distribution of 30% water supply is not sufficient for all the Community in 9 Towns. the Municipality is experiencing high water losses because of aging infrastructure. The Municipality is experiencing high sewer blockages because old infrastructure and water restrictions.

- 5.8. The Municipality has 200 residents who are still using the bucket system in Fauresmith. The Municipality does not have proper equipment to unblock the main lines, (sewer blower). Most of the water treatment plants are dysfunctional leading to pollution of water resources. Currently DWS has issued the municipality with directives and possible criminal charges.
- 5.9. The Municipality has the weekly schedule for refuse removal, however due to lack of proper vehicles, the municipality is unable to service all household. The above results in illegal dumping. Kopanong Local Municipality electricity is supplied by Eskom. Centlec terminated its contract with Kopanong in September 2024 and subsequently Council appointed Lesedi to Africa for a period of 3 years
- 5.10. The local municipality needs support in terms of Vaal Central Debt Relief Incentive, Systemic Revenue Enhancement Strategy, organizational Structure Review, Yellow and White Fleet and High Impact Economic Projects, Data cleansing, credible billing, strengthening credit control, Develop Revenue Enhancement strategy, Perform Skills Audit, Review the current Organisational structure, and adopt the schedule for Council meetings. Refurbishment of water treatment plants, Training of Process Controllers, Installation of smart prepaid water metres and support in Blue, Green and No drop, removal of asbestos roofing and mud houses, acceleration of the formalization of informal settlement, fast tracking of outstanding infrastructure projects in Kopanong and finalisation of incomplete housing projects

## **6. Briefing by South African Local Government Association (SALGA)**

- 6.1. The representative of SALGA informed the delegation of the Select Committee that no specific role allocated by Constitution of the Republic to SALGA in Section 139 Interventions. However, SALGA is of the opinion that section 139 intervention should be the last resort when Section 154 support has not been effective, this should be accompanied by proper targeted support.
- 6.2. The representative indicated that SALGA has been lobbying on behalf of municipalities for a Section 154 approach to resolving municipal challenges. The approached proposed underpins the reciprocal cooperative governance model as entrenched in chapter 3 of the Constitution and advocates for all spheres of government to ensure that substantively section 154 support has been provided and proved not to have yielded any positive outcome for the invocation of section 139 intervention.

- 6.3. The proposal is that only when all spheres of government have exhausted various levels of support should the application of section 139 intervention be considered to assist a municipality to discharge its constitutional and legislative mandate and executive obligations
- 6.4. The representative reported that during SALGA's Provincial Members Assembly in November 2024, an item of Section 139 effectiveness was considered, and a resolution taken that SALGA should lobby for Section 154 approach in order to ensure effective turning around in distressed municipalities not only in Free State province, but also in the country.
- 6.5. The SALGA representative indicated that the approach to send only one administrator to intervene in the municipality has not been effective and that a team-based approach would be more effective which can be done through targeted Sec 154 support. There is a mixture of various challenges and successes that have been encountered in the implementation of Section 154 in the province, ranging from human and financial resources to service delivery.
- 6.6. The potential of Section 154 support illustrates the need for a cooperative approach in the IGR machinery while striving for the common goal of functional municipalities resulting in service delivery for our citizens. SALGA representative reported that Kopanong local municipality is one of the municipalities that have been highly distressed due to, amongst other matters: low revenue collection, non-payment of municipal employee salaries and escalating waterboard debt. In September 2023, Intervention in terms of s139(1)(b) of the Constitution, read together with s63 of the Water Services Act was invoked, however the challenges in the municipality have not been resolved.
- 6.7. It is the opinion of SALGA that a multi-sectoral and structured Section 154 (e.g. MSIP) can address the following: Filling of senior management post and review of the bloated organisational structure, Improvement of the billing system to collect revenue and review of the indigent policy and Systems to curb UIF&W Expenditures and improve SCM compliance, Resolve the Vaal Central debt issue and improve water supply to communities
- 6.8. The SALGA representative informed the delegation of the Select Committee that Kopanong Local Municipality is set to be reestablished after the next Local Government Election. This means that 4 towns will be re-demarcated to form a new local municipality. However, this may not be a

panacea to the challenges that the municipality is facing and therefore more long-term and sustainable solutions must be explored. These include Review of the Equitable Share formula especially for municipalities such as Kopanong that are highly dependent on grants, operate in areas with low revenue bases and rural in nature, review of the overall Local Government funding model, review of LG White Paper (assumptions on municipal revenue generation) , Exploration of direct investments to stimulate economic activity and growth (e.g. solar farm projects) to address high levels of unemployment and Review of Intergovernmental Monitoring, Support and Interventions Bill

6.9. In terms of support, the representative reported that SALGA has provided support to the local municipality through Financial & Accounting Sector Education and Training (FASSET). The support included training of members of audit committee, preparation of annual financial statements, asset management, reconciliation of billing system with general valuation roll, records management, training on MuSSA and Municipal Priority Action Plans, drafting of Municipal Priority Action Plans, energy transition support Programme, review of disaster management plan to factor in Climate Change and training of members of the Municipal Public Accounts Committees (MPACs)

## **7. Presentation by the South African Human Right Commission (SAHRC)**

7.1. The Commissioner of the South African Human Rights Commission briefed the delegation of the Select Committee on the inquiry report into the state of service delivery at local government level in the Free State Province. The presentation focuses on the findings and recommendations made by the SAHRC in its Inquiry Report to Kopanong Local Municipality.

7.2. The Commissioner indicated that the SAHRC through its Free State Provincial Office (FSPO) received a myriad of economic and social rights-related complaints. The complaints spanned a wide range of critical issues: lack of access to water, electricity challenges, housing challenges, sanitation challenges, refuse collection challenges; inadequate infrastructure for sewage treatment; and dilapidated roads. To respond to the complaints the Commission instituted an Inquiry. The Inquiry was conducted in terms of section 13(3) and 15(1) of the South African Human Rights Commission Act, 40 of 2013 from 25 to 28 March 2024.

- 7.3. The objectives of the Inquiry were to: assess the state of service delivery within local municipalities in the Free State at a systemic level, investigate the drivers of the deteriorating state of service delivery from a multi-stakeholder perspective. investigate the contribution of the various municipal and provincial actors to the current state of service delivery within local municipalities in the Free State. make findings, and recommendations aimed at addressing service delivery challenges in the municipalities.
- 7.4. The SAHRC has received several complaints relating to service delivery against the municipality over the years. The failure of the Acting MM to appear before the inquiry has deprived the SAHRC of an opportunity to establish the challenges facing this municipality in discharging its constitutional mandate. The SAHRC, on 12 July 2024 and at its Free State provincial offices, held a subpoena hearing against the Acting MM, Mr Marshall Madolo. The SAHRC finds that the MM was dishonest and did not act in good faith when questioned about the reasons for his non-appearance at the March 2024 inquiry. The SAHRC finds that the municipality is dysfunctional due to the high rate of vacancies in senior positions.
- 7.6. The SAHRC found that the municipal employees are not paid regularly, and as such they opt not to report for work. This adversely affects the rights of residents in terms of service delivery requirements. The SAHRC finds the municipality to be in contravention of section 96 of the Municipal Systems Act for failing to collect revenue. The revenue collection rate of the municipality is below 40%. As a result, the municipality is highly dependent on the grant.
- 7.7. The SAHRC found that the municipality has a high level of indebtedness to Eskom and bulk water providers. This has not been addressed and has led to cuts in water provision, with resultant low water in high-lying areas. The SAHRC finds that the municipality is in violation of section 21(g) of the National Water Act and section 28 of NEMA for polluting the environment and water sources. The SAHRC further finds that the municipality is in violation of sections 10, 24(1)(b) and 152(1)(d) of the Constitution and section 28(1) of the NEMA for failing to adequately address the chronic sewage spills in its authority, particularly in the Gariep Dam. The municipality acknowledged that sewage spills were a challenge and pollution of water sources has taken place.
- 7.8. The SAHRC found that Kopanong Local Municipality has violated residents' right to access water. The continued lack of access to water therefore violates the residents' rights in terms of 27(1)(b) of the Constitution and regulations 3 and 4 of the Regulations relating to compulsory national standards and measures to conserve water. During the subpoena hearing, the municipality

acknowledged that certain residents in Gariep and other high-lying areas within the municipality were not being provided with sufficient access to water.

- 7.9. The SAHRC found that the municipality's water and sanitation infrastructure is old and dilapidated and needs urgent refurbishment for the municipality to meet its constitutional obligation of provision of services to its residents.
- 7.10. The SAHRC has recommended that the municipality must within three (3) months of receipt of this report furnish the SAHRC with a comprehensive report on how it plans to deal with the sewage spills at Gariep Dam, including plans to refurbish the WWTWs. The municipality must within three (3) months of receipt of this report submit to the SAHRC a council approved plan on: i) how water will be provided to all households in the jurisdiction of the municipality, ii) measures which the municipality has or is putting in place to ensure that it communicates the water shedding schedule to communities timeously; and iii) whether a Service Level Agreement has been concluded with a bulk water provider to deal with the arrears and ensure that the lack of water supply in the municipality is addressed.
- 7.11. That the municipality must within three (3) months of receipt of this report submit to the SAHRC a council approved plan on how water will be provided to all households in the jurisdiction of the municipality, particularly those in high-lying areas such as Bethulie.
- 7.12. That the municipality must within three (3) months of receipt of this report submit to the SAHRC a council approved plan on how the municipality intends to service its debt with Eskom and bulk water service providers.
- 7.13. That the municipality must within three (3) months of receipt of this report submit to the SAHRC a council approved plan on how it will improve its revenue collection to assist in stabilizing the finances of the municipality.
- 7.14. That the municipality must within three (3) months of receipt of this report provide the SAHRC with a report on the progress of the filling of critical posts. The report should also indicate how many of the critical posts are still vacant, the reasons thereof and anticipated dates of filling the vacancies.

## 8. Opinions of the Chief Whips of Political Parties

- 8.1. The representative of **Freedom Front Plus** shared the opinion on the state of the local municipality. The representative raised concerns about the council and administration working against each other, non-implementation of council resolutions, absence of indigent registry, problem with administration.
- 8.2. The representative of the **Democratic Alliance** shared opinion on the state of the local municipality. The representative raised concerns about sewage going into the Dam. Lack of assistance from CoGTA, Vaal Water Accounts, water crisis, sewage spillage in the street, non-functionality of water and waste treatment plant, grand depended local municipality, NCOP to follow up on the executive commitments and undertakings made by the deputy president.
- 8.3. The representative of the **Economic Freedom Fighters** shared opinion on the state of the local municipality. The representative raised concerns about the bloated organizational organogram of the local municipality and lack of impact of the invocation of 139. The representative demanded the provision of delivery of service delivery to the community.
- 8.4. The representative of the **African National Congress** shared opinion on the state of the local municipality. Although acknowledge the support provided by the Department of Cooperative Governance and Traditional Affairs, the representative urged that the municipality needs financial support to deal with payments of pension funds, salaries, filling of critical positions and implementation of the findings and recommendations emanating from the report of the South African Human Rights Commission. The representative appealed to the delegation of the select committee to lobby for the financial support of the local municipality.

## 9. Observations of the Select Committee

- 9.1. The Select Committee has noted with great concerns the report of the South African Human Rights Commission which has found that the local municipality has been in violation of sections 10, 24(1)(b) and 152 (1)(d) of the Constitution and section 28(1) of NEMA for failing

to adequately address the chronic sewage spills in its authority, particularly in the Wilge and Vaal River.

- 9.2. The Select Committee has also noted with concerns about the Director of Technical not knowing the current status of water in the reservoir, lack of security at the water treatment plant, the failure of the local municipality to update the indigent registry, poor billing system, lack of consequence management, high number of outstanding creditors, backlog of 3rd Party payments and salaries, debts owed to Eskom and Water Boards, bloated organizational structure, failure to compile section 71 & 72 reports, non-implementation of council resolutions, non-compliance with legislation on appointments, dependency on grants and equitable share, continuity of irregular, fruitless and wasteful expenditure, lack of political oversight, lack of financial control and financial mismanagement, lack of revenue collection strategy, failure to develop action plans to deal with the findings recommendations of the Auditor- General and the report of the South African Human Rights Commission.
- 9.3. The Select Committee has further noted with great concerns the lack of public participation, failure to invite or ensure participation of internal and external stakeholders in the scheduled oversight visit of the select committee, lack of action by SALGA to address the bloated municipal organogram, dysfunctionality of oversight committees and Municipal Public Accounts Committee, insufficient support in terms of section 154 of the Constitution by Free State Department of Cooperative Governance and Traditional Affairs, non-response to the letter written by the local municipality in 2023 requesting assistance for development and implementation of the financial recovery plan, lack of action plan related to the implementation of the financial recovery plan with deadlines, targets or key performance indicators.

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

- 10.1. Having conducted an oversight visit to Kopanong Local Municipality, the Select Committee recommends to the National Council of Provinces as follows:

- 10.1.1 That the NCOP notes the Post-Intervention Impact Assessment oversight visit conducted to Kopanong Local Municipality to assess the state of the municipality in terms of section 139 (1) (b), section 139 (5) (a& c) and section 154 of the Constitution.
- 10.1.2. That the Office of the Speaker to provide the Select Committee within 14 days the list, names, contact details and prove of invitation of the internal and external stakeholders who were invited to be part of oversight visit and share their opinions on the status of the local municipality in terms of section 139 (1), section 139 (5) (a & c) and section 154 of the Constitution
- 10.1.3. That the Appointed Administrator to develop action plan to deal with the findings and recommendations emanating from the Report of the South African Human Rights Commission on the state of local government specifically in Kopanong Local Municipality.
- 10.1.4. The Municipal Mayor to convene a special council meeting to consider and adopt the action plan developed by the appointed Administrator to deal with the findings and recommendations emanating from the report of the South African Human Rights Commission on the state of local municipality in Kopanon Local Municipality.
- 10.1.5. That the Local Municipality to provide the Select Committee within 14 days after the oversight visit with plan to update indigent registry, council resolution on the action plan to deal with the report of the South African Human Rights Commission, covering sewage spillage, refurbishment of WWTW, water shedding schedule, debt owed to Eskom and bulk water, debt collection plan, revenue improvement strategy, reports on filling of critical posts and completion of disciplinary cases.
- 10.1.6. That the Free State MEC of the Department of Cooperative Governance and Traditional Affairs should provide quarterly reports on the implementation of section 139 (5) (a&c) of the Constitution in local municipality including support in terms of section 154 of the Constitution
- 10.1.7. That the Free State MEC of the Department of Cooperative Governance and Traditional Affairs in collaboration with South African Local Government Association should

provide support to the Kopanong Local Municipality in developing action plan to deal with the findings and recommendations of the report of the South African Human Rights Commission and Auditor-General of South Africa.

- 10.1.8. That the Free State Department of Cooperative Governance and Traditional Affairs in collaboration with National Treasury and South African Local Government Association to conduct skills audits before the re-evaluation is done regarding the intervention and implementation of the financial recovery plan
- 10.1.9 That the Select Committee on Cooperative Governance and Public Administration to engage during the 2025 parliamentary second term, the Minister of the Department of Cooperative Governance on review of the Equitable Share formula, review of the overall Local Government funding model, review of Local Government White Paper and tabling of Intergovernmental Monitoring, Support and Interventions Bill, 2025
- 10.1.10. That the Select Committee on Cooperative Governance and Public Administration engage during the 2025 parliamentary second term the Minister of the Department of Water and Sanitation on the implementation of section 63 intervention in terms of the Water Service Act of 1997 in Free State Municipalities specifically and generally across the provinces.
- 10.1.11. That the Select Committee on Cooperative Governance and Public Administration to engage during the 2025 parliamentary second term the National Treasury on the state of section 139 (5) (a & c) interventions in municipalities specifically in the Free State and generally across the provinces including support in terms of section 154 of the constitution
- 10.1.12. That the Select Committee on Cooperative Governance and Public Administration to engage during the 2025 parliamentary second term the Municipal Infrastructure Support Agent on the technical support provided to municipalities specifically in Free State and generally across the provinces
- 10.1.13. That the Select Committee on Cooperative Governance and Public Administration engage during the 2025 parliamentary second term the Free State MEC of Department

of Cooperative Governance and Traditional Affairs and Lesedi to discuss the nature of the contract, benefits to municipalities and social responsibility programmes.

*Report to be considered.*

## **4. REPORT OF THE SELECT COMMITTEE ON COOPERATIVE GOVERNANCE AND PUBLIC ADMINISTRATION, TRADITIONAL AFFAIRS, WATER, SANITATION AND HUMAN SETTLEMENT ON OVERSIGHT VISIT TO MATJHABENG LOCAL MUNICIPALITY IN FREE STATE PROVINCE, DATED 8 APRIL 2025**

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

- 1.1 The Select Committee on Co-operative Governance and Public Administration (Traditional Affairs Water, Sanitation and Human Settlement) having conducted oversight visit to Matjhabeng Local Municipality in Free State Province, reports to the National Council of Provinces as follows:
- 1.2. On the 4th of November 2024, the Free State MEC of the Department of Cooperative Governance and Traditional Affairs tabled to the Office of the Chairperson of the National Council of Provinces the notice of intervention in terms of section 139 (5) (a & c) of the Constitution in Mathjabeng Local Municipality. After the tabling, the Chairperson of the National Council of Provinces referred the notice of intervention in terms of NCOP Rule 101 to the Select Committee on Cooperative Governance and Public Administration for consideration and reporting
- 1.3. On the 19<sup>th</sup> of March 2025, the delegation of the Select Committee conducted proactive oversight visit to Majhabeng Local Municipality. The main objective of the oversight visit was to interact with internal and external stakeholders and solicit their opinions on constitutional, procedural and substantive matters related to the invocation of section 139 (5) (a & c) of the Constitution in the Local Municipality.

### **2. Delegation of the Select Committee**

- 2.1. The delegation of the Select Committee was composed of the following members and parliamentary officials: Hon TM Kaunda (Leader of the Delegation), Hon MM Peter,

Hon M Makesini, Hon K Ceza, Hon T Breedts, Hon, Dr I Scheurkogel, Hon E Nzimande, Hon B S Mabebo, Hon B Badenhorst, Mr T M Manele, Committee Secretary, Mr L Ben, Committee Assistant and Mr P Malatswa, Parliamentary Communication Officer

### **3. Overview of Oversight Visit to Matjhabeng Local Municipality**

- 3.1. During the oversight visit to the local municipality, the delegation of the Select Committee interacted with the Department of Cooperative Governance and Traditional Affairs, the Municipal Mayor, Chief Whips of Political Parties, representative of the South African Local Government Association, South African and the Commissioner of the South African Human Rights Commission

### **4. Briefing by the Free State Department of Cooperative Governance and Traditional Affairs**

- 4.1 The Head of the Department of Cooperative Governance and Traditional Affairs informed the delegation of the Select Committee that the on the 23<sup>rd</sup> October 2024, the Free State High Court Division, delivered a judgement on an application which was brought by Democratic Alliance seeking a declaratory order and ancillary relief concerning the Matjhabeng Local Municipality's serious and persistent material breach to carry out its duties to ensure provision of services to its communities in a sustainable manner, failure to promote social and economic development, promote a safe and healthy environment, as well as failure to structure and manage its administration, budgeting and planning processes to give priority to the basic needs of the community and to promote the social and economic development of the community.
- 4.2. Where the Department of Cooperative Governance & Traditional Affairs falls short of funding to fund the administrative costs arising from the intervention, such funding will be made available by Provincial Treasury. In November 2024, the National Treasury gave notice to the municipality that they intended withholding its equitable share for December 2024. After intervention by MEC of Department of the CoGTA, the equitable share was released on condition that the municipality prioritize payment of Vaal Central Water, Pension funds, SARS, other 3rd parties and Eskom.

- 4.3. The Departmental reported that the Municipality provided proof of payments to the Department of CoGTA after equitable share was released. A written communique was also received on 15 November 2024 from the Executive Mayor addressed to the MEC of the Department of CoGTA informing the latter that the municipality has lodged an appeal against the High Court judgement of 23 October 2024, and that in terms of Section 18(1) of the Superior Courts Act, the judgement which led to the intervention is suspended.
- 4.4. The Departmental Head (HoD) reported that the State Attorney has confirmed in a communique to the HoD CoGTA on 17 February 2025 that the judgement is indeed suspended pending the appeal. The intervention remains suspended pending the appeal.

## **5. Briefing by the Acting Municipal Mayor of Matjhabeng Local Municipality**

- 5.1. The Acting Municipal Mayor made presentation on the state of the Local Municipality. The presentation focused on municipal overview and background; Governance and functionality of oversight structures; institutional capacity; basic services (state of infrastructure challenges of sewer and water); capital projects; water and sanitation; business plans submitted; ministerial interventions; fleet procured; security plan; financial viability; human settlement and planning; local economic development and consequence management
- 5.2. The Acting Municipal Mayor reported that the Municipality serves approximately 115 632 households (Census 2011) in its entire area of jurisdiction comprising of six (6) Towns and six (6) Townships. The Sewer network comprises of 1534km with 25 929 manholes, 57 pump stations (48 not currently working) and 11 WWTW (8 not working). Matjhabeng Local Municipality has aged sewer infrastructure consisting of a total of 1543km of sewer pipelines, which mostly are collapsed, blocked, and some of the sewer lines have reached designed life span requiring urgent replacements, sewer challenges in Matjhabeng includes maintenance backlogs and sever vandalism of the infrastructure, infiltration of tree roots into the sewer lines (clay pipes), financial constraints and limited resources.
- 5.3. Due to the geographical terrain of Matjhabeng areas, the Acting Municipal Mayor indicated that the sewer network infrastructure is very deep which also poses challenge when it comes

to maintenance. On 15 July 2022 (DWS) appointed Vaal Central Water as the Implementing Agent to rollout the Sanitation Infrastructure projects in Matjhabeng Local Municipality, which had not been operational for more than 10 years, dysfunctional and vandalized. The Municipality is experiencing various challenges such as economic decline due to mining closures, infrastructure theft, vandalism, illegal mining activities, ageing infrastructure, etc.

- 5.4. To enhance security on water and sanitation plants, the Acting Municipal Mayor reported that the local municipality will be installing integrated CCTV in strategic infrastructure, IP Hybrid camera system, automated number plate recognition, facial recognition and finger reading system at all sites for access control and using of smart drones to minimize challenges of monitoring large areas like the Wastewater Treatment Plants.
- 5.5. The Acting Municipal Mayor reported that as part of revenue enhancement strategy, the municipality had a discount offer running for a 6-month period on residential and businesses that owe more than R20 thousand and R50 thousand respectively for a 40% discount on full and final settlements. As part of building internal capacity, the municipality is in the process of appointing 36-meter readers and the strategies of revenue collection have included intensifying disconnection for water and service through Operation Patala and Operation Kwala and appointment of debt collectors.
- 5.6. Some of the challenges related to economic development reported by the acting mayor include lack of development and maintenance of critical infrastructure (Economic enablers. i.e. bulk infrastructure upgrade and refurbishment (roads, water and sanitation), need for allocation of internal funding for key infrastructure investment on priority areas in line with the development areas as outlined in the SDF, lack of SPV to give effect to priority catalytic development project, engagement with SANRAL to prioritize support infrastructure in line with the priorities of the municipality for key national and regional route upgrade and maintenance.
- 5.7. The Acting Municipal Mayor indicated that there has been improvement in work ethics and backlogs on disciplinary cases as part of implementing consequence management. All outstanding cases of Managers, Securities, Cashiers to mention a few will be finalized by the 30th of June 2025. The council has terminated the employment contract of the Executive Director: Human Settlement and Spatial planning for alleged illegal land disposal, the matter was reported to the Hawks and SIU for further investigation. Payroll

Forensic investigation has been concluded, the is further investigations conducted by the Hawks and SIU.

## **6. Briefing by South African Local Government Association (SALGA)**

- 6.1. The representative of SALGA informed the delegation of the Select Committee that the 1996 Constitution does not provide specific role of SALGA in Section 139 Interventions. However, the Municipal Finance Management Act (MFMA) provides that in Mandatory Provincial Interventions arising from financial crisis in municipalities, SALGA (Organised Local Government): -must be consulted prior to finalisation of Financial Recovery Plan (at least 14 days before finalisation); receive quarterly progress reports on the Intervention; and make representations to the NCOP when considering the intervention.
- 6.2. The representative of SALGA indicated that Matjhabeng Local Municipality continues to face several challenges that impact on its ability to effectively dispense its constitutional duties including (a) high levels of debt, (b) aging infrastructure, vandalization of supply network by illegal mining operators like Zama-zamas, (c ) high levels of water and electricity losses which impact negatively on potential municipal revenues, (d) high levels of unemployment resulting from scores of people who were supplying labour to the discontinued mines within Matjhabeng and surrounding areas and ( e) Auditor-General's concerns about comparatively high levels of recorded irregular, unauthorized, fruitless and wasteful expenditures which impacts negatively on the municipality's ability to achieve clean audits
- 6.3. The representative of SALGA informed the delegation of the Select Committee that the Free State MEC of the Department of Cooperative Governance and Traditional Affairs instituted a Section 106 investigation triggered by maladministration. The Terms of reference were presented to council and investigation scope areas and duration were determined. Following an NCOP week oversight visit, the NCOP received presentations from the municipality on the status and site visits were conducted. The NCOP submitted a motion of concern to the Premier advising the Provincial Executive to intervene in terms of Sec 193(5). On 30 October 2025, the FS Executive invoked Section 139(5)(a) & (c). However, no formal communication to SALGA was received on invoking the intervention, nor establishment of Financial Recovery Plan's workstreams.

- 6.4. The representative further informed the delegation that the local municipality has faced challenges, and various initiatives and interventions have been conducted; however, the municipality's performance is not improving. The SALGA Governance & IGR Working Group of February 2025 discussed the issue of Matjhabeng citing non-compliance with process issues regarding the institution of the intervention.
- 6.5. The representative of SALGA indicated that the Municipal Finance Management Act is clear on the role of Organised Local Government in the Financial Recovery plan processes, however these were not followed. SALGA complained that to date it has not received formal communication on the intervention and the initiation meeting to consider the development and the implementation of the Financial Recovery Plan.
- 6.6. The SALGA FS PEC also considered the same report in March 2025 noting the WG concerns and resolved to engage the MEC: CoGTA in this regard. SALGA proposes the following to correct the process (a) development of the FRP - SALGA to be invited and workstreams to be established, (b) approval of the FRP – the Sec 139 intervention should directly and effectively remedy the triggers that led to the invocation of the Sec 139 (c) capacity building session to be held to capacitate Cllrs & officials on the intervention.
- 6.7. SALGA conducted a municipal financial sustainability assessment in 2024 to understand internal and external factors that impact financial performance and position of Matjhabeng Local Municipality. The analysis focused on the current municipality's financial standing and the environment in which it operates. This includes assessment of its expenditure, revenue and the services it renders.
- 6.8. SALGA representative reported that the findings have revealed the municipality has poor strategic position, intense financial distress, weak financial and equity value, overpowered by internal weaknesses and difficulties in its operating environment, technically and commercially insolvent, with the rapid escalation of indebtedness to creditors, lack competitive advantage in trading service operations and decline in financial stability.
- 6.9. On governance related matters, SALGA representative reported that the local Municipality is experiencing some issues on political instability. Council meeting has been sitting and

considering reports for council business, however, there has been motion of no confidence against the Executive Mayor filed as a result the municipality has currently an acting Executive Mayor.

- 6.10. There has been 1 issue recorded in the municipality with regards to compliance with the Code of Conduct for Councillors which were investigated by the Speaker and referred to the MEC. The municipality has senior management positions filled however the Municipal Manager and Technical Services positions remain vacant. Labour peace has been significantly unstable in the municipality resulting in sometimes disruptive employee strikes citing the following issues (provide issues that led to labour unrest). There has been several Labour Relations related cases that have been reported
- 6.11. In terms of service delivery performance, SALGA representative reported that the municipality Green Drop status is at critical status and municipality required to submit Corrective Action Plans for all the systems. Corrective Action Plans submitted to DWS for Green Drop but rejected by DWS. Blue Drop and No Drop Corrective Action Plans not required. Municipality criminally charged by DWS and consultation on implementation of MIG 6B held by CoGTA in January 2025. The Local Municipality has still not submitted its Municipal Strategic Self-Assessment for 2024.
- 6.12. The representative of SALGA informed the delegation of the Select Committee that the local municipality has been provided with support and assistance in the preparation of financial statements, asset management, reconciliation of billing system with General valuation Roll and records management system. The local municipality has also been supported with capacity building to improve performance across the waste value chain, implementation of the Waste Management App. training of Municipal Public Accounts Committees and Anti-corruption & Ethics Workshop
- 6.13. The representative of SALGA informed the delegation of the Select Committee that it has taken note of the growing number of litigations against municipalities that in some instances result in the attachment of municipal bank accounts that at times present challenges in payment of salaries in municipalities. In line with the mandate SALGA had taken the initiative to provide targeted and customized support for municipalities on legal matters. Matjhabeng

LM is one of the municipalities that SALGA has identified to be provided with legal advisory support on litigations.

- 6.14. The SALGA representative reported that a meeting was held on the November 2024 wherein the municipality presented its litigation challenges. Furthermore, SALGA outlined its available support on legal matters. The outcome of the initial meeting resolved that there will be a follow-up meeting wherein the municipality will present its litigation register and status of legal matters with specific reference to the Section 152 application(s) of the municipality. SALGA has committed to providing Legal Opinions and legal advice on litigation challenges faced by the municipality

## **7. Presentation by the South African Human Right Commission (SAHRC)**

- 7.1. The Commissioner of the South African Human Rights Commission briefed the delegation of the Select Committee on the inquiry report into the state of service delivery at local government level in the Free State Province. The presentation focuses on the findings and recommendations made by the SAHRC in its Inquiry Report to Matjhabeng Local Municipality.
- 7.2. The Commissioner indicated that the SAHRC through its Free State Provincial Office (FSPO) received a myriad of economic and social rights-related complaints. The complaints spanned a wide range of critical issues: lack of access to water, electricity challenges, housing challenges, sanitation challenges, refuse collection challenges; inadequate infrastructure for sewage treatment; and dilapidated roads. To respond to the complaints the Commission instituted an Inquiry.
- 7.3. The Inquiry was conducted in terms of section 13(3) and 15(1) of the South African Human Rights Commission Act, 40 of 2013 from 25 to 28 March 2024. The objectives of the Inquiry were to: assess the state of service delivery within local municipalities in the Free State at a systemic level, investigate the drivers of the deteriorating state of service delivery from a multi-stakeholder perspective. investigate the contribution of the various municipal and provincial actors to the current state of service delivery within local municipalities in the Free State. make findings, and recommendations aimed at addressing service delivery challenges in the municipalities.

- 7.4. The SAHRC found that Matjhabeng Local Municipality is in violation of sections 10, 24(1)(b) and 152(1)(d) of the Constitution and section 28(1) of NEMA for failing to adequately address the chronic sewage spills in its authority. The inquiry heard how the sewage spills within the authority of the municipality, such as in Welkom, Hennenman (Phomolong), Virginia (Meloding) Welkom (Thabong), Allanridge (Nyakallong), and Ventersburg (Mamahabane) has led to the closure of schools, affecting the right to education. It has also affected the right to a safe and healthy environment.
- 7.5. The SAHRC found that in Allanridge (Nyakallong), residents' houses are sub-merged in water and one family has lost their house as a result. The municipality has been discharging its sewage into the Allanridge Dam/Pan which has caused the water level to rise, and it has resulted in serious environmental degradation.
- 7.6. The SAHRC found that raw sewage has been flowing into the Tikwe River and is contaminating scarce water resources. The SAHRC found that Matjhabeng Local Municipality is in contravention of section 28 of NEMA which provides for a general duty of care to prevent and remedy pollution or environmental degradation.
- 7.8. The SAHRC found that there are serious water challenges in the municipality, with some residents in Ventersburg being without access to water for days. The municipality submitted that factors such as vandalism, loadshedding, and sabotage affect water service provision. Whilst the SAHRC acknowledges these factors, the continued lack of access to water violates residents' rights in terms of 27(1)(b) of the Constitution and regulations 3 and 4 of the Regulations relating to compulsory national standards and measures to conserve water. Furthermore, the municipality is found to be in violation of section 11 of the Water Services Act.
- 7.9. The SAHRC found that the municipality has received qualified audit opinions for the past three budget years, denoting lack of improvement. The SAHRC found that during the subpoena hearing, held on the 12 July 2024 at SAHRC's Free State Provincial Office, through responsible concessions and admissions made by the MM Advocate Sonwabo Nqonqo during his testimony, that sabotage of municipal infrastructure is rife. Further, the sabotage could be attributed to a syndicate operating within the authority of the municipality and is benefiting financially from tenders for the repair of damaged infrastructure.
- 7.10. The SAHRC has recommended that the municipality must within three (3) months of receipt of this report provide the SAHRC with a comprehensive report on how it plans to deal with

the sewage spills in its authority. The report must include: i) municipal plans on its intervention measures taken to resolve the Allanridge Dam disaster and measures it has already taken to relocate the affected residents in Allanridge.

- 7.11. The municipality must within three (3) months of receipt of this report submit to the SAHRC a detailed council approved report on how water will be provided to all households in the jurisdiction of the municipality, particularly those in Ventersburg, Mmamahabane, and high-lying areas such as Flamingo Park in Welkom. The municipality must further provide the SAHRC with its alternative intervention water plan by exploring drilling solar powered boreholes in the Ventersburg area to increase stability in access to water by residents in Ventersburg.
- 7.12. The municipality must within three (3) months of receipt of this report submit to the SAHRC a comprehensive council approved plan on how it plans to address the poor audit outcomes to ensure that there is improvement in the next budget years. The municipality must within three (3) months of the receipt of the report furnish the SAHRC with a report on plans to address theft and vandalism of the municipal infrastructure.

## **8. Opinions of the Chief Whips of Political Parties**

- 8.1. The representative of **COPE** shared the opinion on the state of the local municipality. The representative raised concerns about un-filling of vacant positions, lack of personnel, water leakages, sewage spillage, and the need for the local municipality to appoint the right people.
- 8.2. The representative of **Freedom Front Plus** shared the opinion on the state of the local municipality. The representative welcomed the intervention but stated that the municipality has capacity and the challenges facing the municipality could have been solved internally rather than externally. The major concerns raised by the representative included existing culture of non-payment of services, poor revenue enhancement, failure to update indigent registry, lack of capacity of employees, lack of accountability, non-implementation of council resolutions and a need impartial change agent.
- 8.3. The representative of the **EFF** shared opinion on the state of the local municipality. The representative raised concerns about unclean water, unlawful water shedding, dilapidated infrastructure, housing problem, non-allocation of houses by the Department of Human

Settlement, lacking of political leadership, defending convicted mayor, leadership crisis within the provincial department of cooperative governance and traditional affairs, non-departmental failure to respond to municipal complaints, political interference in the administration, litigations over unfair and constructive dismissals, non-payment of creditors, municipal financial viability. municipality,

- 8.4. The representative of **ISANCO** shared an opinion on the state of the local municipality. The representative indicated that since 2021, there has been improvement in the municipality. The representative indicated the National Treasury has provided financial support of twenty-one million for the local municipality to deal with the water crisis and spillage. The representative further indicated that the local municipality has created water oversight committee, and the technical assessment report will be tabled in July 2025. The representative said that the municipality is not failing to pay creditors and does not support the court judgement on invocation of section 139 but supports the invocation of section 154 of the Constitution.
- 8.5. The representative of the **Democratic Alliance** shared opinion on the state of the local Municipality. The representative raised concerns about the findings emanating from the report of the South African Human Rights Commission. The major concerns raised by the representative include municipal failure to perform its constitutional obligations, non-provision of basic services, rubbish collection, sewage spillages, lack of credible and funded budget, incorrect billing system. The representative tabled an opinion that supports the court judgement and the invocation of section 139 (5) (a& c) of the Constitution.
- 8.6. The representative of the **African National Congress** shared opinion on the state of the local municipality. While acknowledging the service delivery challenges, the representative indicated that the Department of Water and Sanitation has provided support to the municipality to deal with the water crisis and sewage spillages within the communities. The representative further acknowledged the support provided by the Department of Cooperative Governance and Traditional Affairs and the South African Local Government Association. The representative indicated that the local municipality has made progress in ensuring the functionality of section 79 committees and called for collaboration among political parties and the need for the provincial departments to pay the debts owed to the local municipality.

## 9. Opinions of Internal and External Stakeholders

- 9.1. The representative of **Zukabaloyi Business Foundation** shared opinion on the state of the local municipality. The representative raised concerns about the failure of the local municipality to invite the external stakeholders in time, lack of knowledge by the leadership to govern the municipal in terms of the provision of the local government: municipal system act and section 152 of the constitution. The representative raised also concerns about sewage spillage, lack of accountability, failure of the local municipality to be responsive to the submissions made by the community business forums, abandoned and vandalized municipal building. The representative called upon the delegation of the select committee to conduct a site visit to inspect the abandoned municipal building.
  
- 9.2. The representative of **Matjhabeng Business Community** shared opinion on the state of the local municipality. The representative supported the invocation of section 139 (5) (a & c) of the constitution in the local municipality. The representative raised concerns about the challenging of the court judgment by the local municipality, appointment of companies outside the province to benefit from the municipal tenders, municipal failure to coordinate meeting with the MMC, the Mayor and the directors of departments of the local municipality to discuss business opportunities with the representatives the business community. The representative called upon the investigation of fleet management, payment of legal cost to the legal company that lost all municipal cases, formal investigation of the irregular appointments of senior managers. The representative further called upon the Minister of the Department of Cooperative Governance and Traditional Affairs and the NCOP to investigate the rogue unit in the municipal public safety including missing firearms and spying of politicians.

- 9.3. The representative of **Matjhabeng Business Forum** shared an opinion on the state of the local municipality. The representative welcomed the invocation of intervention in terms of section 139 (5) (a& c) of the constitution and the expected support to be provided. The representative raised concerns about poor water and sewage infrastructure, costs of court interdicts, non-implementation of decisions emanating from the monthly and weekly meetings with the local municipality, potholes, theft of electrical power, vandalism, delays in the approval of building plans, municipal failure to respond to community calls and complains on water leaks, water shedding, poor communication and non-functionality of water trucks provided by Vaal Central
- 9.4. The representative of the **Women in Construction Business** shared opinion on the state of the local municipality. The representative acknowledged that the local municipality is presently doing its best to recognize the role of women in construction business. The representative, however, indicated that major challenges facing the local municipality include funding and allocation of funds from the budget. The representative called upon the Department of Cooperative Governance and Traditional Affairs to provide support to the local municipality in terms of section 154 of the constitution. The representative also called upon the Department of CoGTA to provide support to the local municipality in the development of integrated development planning, quarterly reporting, monitoring, clean audit, and implementation of section 139.
- 9.5. The representative of **Disabled People of South Africa** shared opinion on the state of the local municipality. The representative raised concerns about the failures of the local municipality to treat disabled people as sub-human and third-class citizens. The representative also raised concerns about the failure of the local municipality to implement policies, legislations and the white paper related to the disabled people including meeting the 2% employment requirement for the disabled people. The representative further raised concerns about provision of RDP houses that are not user – friendly to the needs of the disabled people and non -provision of sign language interpreters for the deaf people.

- 9.6. The representative of **Matjhabeng Community Foundation** shared opinion on the state of the Local Municipality. The representative raised concerns about lack of service delivery, mismanagement of infrastructure maintenance funds, appointment of doggy contractors, poor sanitation, sewage spillage. The representative called upon the investigation into the awarding of tenders and payment of half million by the Department of Human Settlements for dealing with challenges related to issuing of title deeds, contractors appointed for incomplete human settlements projects and schools flooded by sewage spillage.
- 9.7. The representative of **SAMWU** shared opinion on the state of the local municipality. the representative raised concerns that since the local government election in 2021, municipal workers had been victims of harassment, unfair labour practices and leaving in fear under the leadership of the suspended mayor. The representative of the Union also raised concerns about the establishment of the rogue unit staffed with people with criminal records without council approval and allocation of budget. The representative indicated that the union has called upon investigation of the illegal activities of the rogue unit including missing of firearms, spying of municipal workers and politicians. Though welcoming the progress made under the leadership of the Acting Mayor, the Union's representative indicated that some of the problems related to service delivery include lack of tools of trade, PPEs and shortage of transport. The representative complained that the local municipality has brought fleet at the auction but currently not usable and just stationed in the municipal workshop.
- 9.8. The representative of the **District Municipality** shared opinion on the state of the local municipality. the district municipality indicated that the local municipality has been provided with support to create decent and stable employment through using community participation programmes and secured more than 10 thousand jobs, assisting the local municipality to decrease their indigent challenges and revenue enhancement. The representative of the district municipality called upon the local municipality to clean up the names of the people working for the mining companies and are on municipal indigent registry.

- 9.9. The representative raised concern about the non-participation of the local municipality in the mining industry and failure to play oversight over the people who are retrenched by the mining companies. The representative called upon the local municipality to approach the mining companies in developing revenue enhancement strategies and the students at the University of Free State who are prepared to assist the local municipality for free of charge.
- 9.10. The representative of **Nalezi Foundation** shared an opinion on the state of the local municipality. The representative appealed to the local municipality adopt the freedom charter, recognize the bill of right as contained in the constitution and the rule of law. The representative called upon the local municipality to consider section 139 as an intervention provided for in the constitution and nor court or political party could stand against the intervention. The representative reminded the leadership of the local municipality that people are striving for equality in terms of section 9 of the constitution and the local municipality has been established in terms of section 152 of the constitution to ensure economic development, a healthy environment and accountable democracy. The representative called upon the Municipal Manager and Director of Corporate services to properly advise the political leadership of the municipality. The representative raised concerns that the decision by the local municipality to challenge the invocation of section 139 (5) (a & c) did not go through public participation and community inputs. The representative urged the local municipality to review the current service delivery mechanisms to deal with the challenges facing the community, withdraw litigations against section 139 because they are fruitless, not budgeted for and informed by community participation and inputs.

## **10. Observations of the Select Committee**

- 10.1. The Select Committee has noted with great concerns the report of the South African Human Rights Commission which has found that the local municipality has been in violation of sections 10, 24(1)(b) and 152 (1)(d) of the Constitution and section 28(1) of NEMA for failing to adequately address the chronic sewage spills in its authority, particularly in the Wilge and Vaal River.

- 10.2. The Select Committee has noted with great concerns the adoption of an unfunded budget, unrealistic project revenue collection of 75-80% where it is below 53%, un-spending of 74 million of conditional grant, 60% of bulk water supply lost due to water leaks, lack of internal control for revenue management, lack of consequence management for officials and non-implementation of council resolutions,
- 10.3. The Select Committee has also noted with great concerns about the opening of a case regarding mayoral chain that has been lost and is being investigated by the Hawks, irregular setting of committees of council, e.g. section 80 and MPAC, low debt collection in municipality with 2 wards collected less than 1% of debt and 19 wards less than 20%, only 2 wards collected above 75%, large amount owing to Eskom, Vaal Central Water and creditors, lack of progress on revenue enhancement despite the establishment of revenue enhancement committee in 2024 and lack of credible information from the councilors on legal costs for the case against the suspended mayor.
- 10.4. The Select Committee has further noted that the municipal project of replacing pipes requires R1.6 bn as opposed to the current budget of 100m, and the current project amounts to R39 plus million; municipality has spent 90 percent of infrastructure grant, infrastructure work within the allocated budget will be at 10 percent, underground infrastructure should be at least 35 years, but in this municipality, it's over 50 years, 10 women and 9 males were appointed in the project from the community. All appointed are less than 35 years through ruffle, the total liters of water lost per day is 140 000 and over R480m lost owing to leakages, the maintenance of the municipality has been budgeting less than 8 percent for infrastructure, Currently, it is budgeted up to 20 percent.
- 10.5. The Select Committee has also noted with concerns the litigations costs of cases assigned to Gauteng Law firm, dismissal of the director of human settlement for sale of land , non-recovery of payment of court case for convicted mayor, residence in ward 14 not accessing their houses because of sewer spillages running through their houses, the dismissal of the Director of human settlement for sale of land, costs of litigation cases assigned to Gauteng Law Firm

- 10.6. Having considered the observations of the delegation during the oversight visit to Matjhabeng Local Municipality, majority of members of the Select Committee resolved to support section 154 of the constitution but not the invocation of section 139 (5) (a & c) of the Constitution. Members of the Democratic Alliance and Freedom Front Plus resolved to submit minority reports which have been captured as indicated below.
- 10.7. **VF Plus** strongly opposes the decision to disregard the application of Section 139 of the Constitution in Matjhabeng Local Municipality in favor of Section 154. This stance is based on constitutional, procedural, and substantive grounds, particularly given the pending appeal in the courts regarding the application of Section 139. Any shift to Section 154 at this stage would be premature, legally questionable, and counterproductive to ensuring municipal accountability and stability. The Free State High Court has already ruled that MLM has persistently failed to meet its constitutional obligations and is in material breach of financial and service delivery commitments. The appeal process remains active, meaning that any deviation from Section 139 before the appeal is concluded could be seen as undermining judicial processes and creating legal uncertainty. Furthermore, Section 139 mandates direct intervention whilst Section 154 focusses on assistance and support. Given the high number of vacancies in key positions and the political instability within the municipality, particularly considering the current Executive Mayor's suspension, the argument can be made that the municipality does not possess the necessary skills or political will to sufficiently address the current problems. Also noting the majority of the political parties represented within the municipal council being in favor of the intervention. Section 154 has mostly not worked. It has proven especially insufficient in cases of severe financial distress and governance failures. In Matjhabeng's case, given the High Court ruling and the municipality's history of mismanagement, section 154 is unlikely to be an effective solution. Taking the above-mentioned into account, VF Plus does not support the committee's decision to invoke Section 154.
- 10.8. **The Democratic Alliance** firmly supports the Free State Provincial Executive to place Matjhabeng Local Municipality under Section 139 (5) (a & c) intervention due the breach of Section 152 (2) and Section 153 (a) of the Constitution of South Africa. Furthermore, as is noted in court order it is clearly indicated that the provincial government has contended that they failed to intervene in the affairs of Matjhabeng. Furthermore, Matjhabeng Local

Municipality has been under Municipal Systems Act Section 106 interventions from the provincial government, therefore Section 154 suggested by the ANC, EFF, MK and UDM will not deliver the required results to ensure Matjhabeng becomes financially viable and provides basic services to residents. The Democratic Alliance therefore does not support the committee's recommendation to implement section 154.

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

11.1. Having conducted an oversight visit to Matjhabeng Local Municipality, the Select Committee recommends to the National Council of Provinces as follows:

11.1.1 That the NCOP takes note the notice issued on 31 October 2024 by Free State Government to invoke section 139 (5) (a & c) to Matjhabeng Local Municipality.

11.1.2. That the National Council of Provinces recommends section 154 of the Constitution noting the minority views of the Democratic Alliance and Freedom Front Plus

11.1.3. The National Council of Provinces notes also that the decision to intervene at Matjhabeng Local Municipality in terms of section 139 (5) (a & c) of the Constitution has been challenged by the Municipality in the court of law, the judgement is still reserved, and that delivery of the judgement will provide certainty on the status of the intervention at local Municipality.

11.1.4. That the National Council of Provinces should recommend the Provincial Executive Council to consider invoking section 154 of the Constitution to provide support to the Local Municipality.

11.1.6. That the Municipal Manager must prepare action plan to deal with the findings and recommendations emanating from the report of the South African Human Rights Commission and the Auditor-General of South Africa.

11.1.7. That the Acting Mayor should convene special Municipal Council meeting to consider and adopt the action plan to deal with the findings and recommendations of the South African Human Rights Commission and the Auditor General of South Africa.

- 11.1.8. That the Chief Financial Officer of Matjhabeng Local Municipality should develop a Cost Containment Plan (including infrastructure maintenance, fruitless and wasteful expenditures, reduction of expenses, improving operational efficiencies) and submit to the Select Committee on Cooperative Governance and Public Administration within 14 days.
- 11.1.9. That the Action Mayor should provide the Select Committee on Cooperative Governance and Public Administration with a report on scheduling of meeting with Reahula residence including attendance registry and resolutions taken during the meeting. That the Local Municipality should investigate the missing of mayoral chain and provide the Select Committee with detailed report within 14 days.
- 11.1.10. That the Free State Department of Cooperative Governance and Traditional Affairs should institute investigation on allegations of fleet management, establishment of rogue unit, missing of firearms and irregular appointments of senior managers within the local municipality.
- 11.1.11. That the Free State MEC of the Department of Cooperative Governance and Traditional Affairs in collaboration with South African Local Government Association should provide support to Matjhabeng Local Municipality in developing action plan to deal with the findings and recommendations of the report of the South African Human Rights Commission and Auditor-General of South Africa.
- 11.1.12. That the Free State MEC of the Department of Cooperative Governance and Traditional Affairs should provide quarterly reports on the implementation of section 139 (5) (a&c) of the Constitution in local municipality including support in terms of section 154 of the Constitution.
- 11.1.13. That the Select Committee on Cooperative Governance and Public Administration to engage during the 2025 parliamentary second term, the Minister of the Department of Cooperative Governance on Funding Model for Local Government and tabling of Intergovernmental Monitoring Support Intervention Bill, 2025.

- 11.1.14. That the Select Committee on Cooperative Governance and Public Administration engage during the 2025 parliamentary second term the Minister of the Department of Water and Sanitation on the implementation of section 63 intervention in terms of the Water Service Act of 1997 in Free State Municipalities specifically and generally across the provinces.
- 11.1.15. That the Select Committee on Cooperative Governance and Public Administration to engage during the 2025 parliamentary second term the National Treasury on the state of section 139 (5) (a & c) interventions in municipalities specifically in the Free State and generally across the provinces including support in terms of section 154 of the Constitution.
- 11.1.16. That the Select Committee on Cooperative Governance and Public Administration to engage during the 2025 parliamentary second term the Municipal Infrastructure Support Agency on the technical support provided to municipalities specifically in Free State and generally across the provinces.
- 11.1.17. That the Select Committee on Cooperative Governance and Public Administration engage during the 2025 parliamentary second term the Free State MEC of Department of Cooperative Governance and Traditional Affairs and Free State rural maintenance to discuss the nature of the contract, benefits to the local municipality and social responsibility programmes.

### **Report to be considered**