



Western Cape
Government

Human Settlements



Annual Report 2010/2011
Department of Human Settlements

Annual Report 2010/2011



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Abbreviations & Acronyms

BESP	Built Environment Support Programme	LEFTE	Less Formal Township Establishment Act
DCOG	Department of Cooperative Governance	WC- LEFTE	Western Cape Less Formal Township Establishment Amendment Act
CNA	Capacity Needs Analysis	LUPO	Land Use Planning Ordinance
CS	Community Survey 2007- Stats SA	MEC	Member of the Executive Council
CSIP	Capacity Support Implementation Plan	MIG	Municipal Infrastructure Grant
DBSA	Development Bank of Southern Africa	MM	Municipal Manager
DEDAT	Department of Economic Development and Tourism	NDOHS	National Department of Human Settlements
DEADP	Department of Environmental Affairs & Development Planning	NHBRC	National Home Builders Registration Council
DM	District Municipality	NSDP	National Spatial Development Perspective
DOLG	Department of Local Government (Western Cape)	NT	National Treasury
DORA	Division of Revenue Act	PDOHS (WC)	Provincial Department of Human Settlements (Western Cape) aka the Department
EE	Employment Equity	PT	Provincial Treasury
EIA	Environmental Impact Assessment	PSDF	Provincial Spatial Development Framework
EHP	Emergency Housing Programme	SCM	Supply Chain Management
EPWP	Expanded Public Works Programme	SDF	Spatial Development Framework
GDP	Gross Domestic Product	SHRA	Social Housing Regulatory Authority
HR	Human Resources	SG	Strategic Goal
HSP	Human Settlement Plan	SO	Strategic Objective
HSS	Housing Subsidy System	WCSHSS	Western Cape Sustainable Human Settlement Strategy
IDP	Integrated Development Plan		
KPA	Key Performance Area		
KPI	Key Performance Indicator		
LED	Local Economic Development		

PART 1: GENERAL INFORMATION

Vision

Developing integrated and sustainable human settlements, with access to social and economic opportunities for all the Province's citizens.

Mission

The mission of the Department of Human Settlements is:

- To be effective agents of change in capacitating and supporting municipalities to optimally deliver housing opportunities;
- To promote, facilitate and develop integrated and sustainable human settlements; and
- To facilitate delivery through sound administration and the government of all spheres and social partners.

Values

The Department of Human Settlements' values are the same as the Batho Pele as well as the values of the Provincial Government Western Cape, which is committed to living according to the following values:

- Competence
- Accountability
- Integrity
- Responsiveness
- Caring

Legislative Mandate

Constitutional Mandates

Chapter 2 (Bill of Rights) of The Constitution, Section 26¹ requires the state to:

- Take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of everyone's right of access to housing; and
- To ensure no-one is evicted from their home, or has their home demolished, without an

order of the court made after considering all the relevant circumstances.

The Constitution² further provides that housing is a competency that is held concurrently by national and provincial governments. Section 156 (1) and (2) of the Constitution³ provides for the powers and functions that a municipality has executive authority for, of which housing as a core competency, is not explicitly included.⁴

However, the Constitution, in Section 156 (4), further states that national and provincial governments must assign to a municipality by agreement and subject to any conditions the administration of matters listed in schedule 4A and 5A⁵ matters which necessarily relate to local government, if:

- a) The matter would most effectively be administered locally; and
- b) The municipality has the capacity to administer it.

As a result of these sections (read together) the housing function has now been deemed in national policy, to be a function that meets the above-mentioned criteria.

Statutory Mandates

The following key pieces of legislation currently govern the housing environment:

(i) Housing Act (Act 107 of 1997)

The mandate of the National Department of Human Settlements (NDoHS) is set out in the Housing Act. Section 2 of the Housing Act compels all 3 spheres of government to give priority to the needs of in respect of housing development.

In addition all 3 spheres of government must ensure that housing development: –

¹ The South African Constitution Act 108 of 1996

² Schedule 4

³ Chapter 7

⁴ Local government has thus afforded a set of 'core' competencies in the Constitution itself. At present, housing is not one of these core competencies, since this is held concurrently by national and provincial government as per Schedule 4 Part A

⁵ Schedule 4 refers to functional areas of concurrent national and provincial legislative competence of which housing is included. Schedule 5 refers to functional areas of exclusive provincial competence.

- (a) Provides as wide a choice of housing and tenure options as is reasonably possible;
- (b) Is economically, fiscally, socially and financially affordable and sustainable;
- (c) Is based on integrated development planning; and
- (d) Is administered in a transparent, accountable and equitable manner, and upholds the practice of good governance Section 2 (1) (c).

The NDOHS is in the process of investigating amendments to the Act to give greater impetus to both the letter and spirit of section 156 of the Constitution. These amendments intend to provide a legislative basis for:

- Assigning the housing function to municipalities where appropriate; and
- To compel national and provincial government bodies to build the capacity of municipalities in order to facilitate assignments that are under consideration.

The Housing Code is issued in terms of this Act. Besides outlining the National Housing Policy document, the Code also provides guidelines and suggestions as to how the Policy should be implemented. In 2009, the NDOHS released a comprehensive revision of the Housing Code to take account of all available subsidy instruments that have evolved over the previous 15 years.

(ii) Prevention of Illegal Eviction From and Unlawful Occupation of Land Act, 1998 (Act 19 of 1998)

The Prevention of Illegal Eviction From and Unlawful Occupation Of Land Act was promulgated in 1998. The Act repeals the Prevention of Illegal Squatting Act 52 of 1951 and makes provision for a fair and equitable process to be followed when evicting people who have unlawfully invaded land, from their homes. The Act makes it an offence to evict such invaders without following due process of law.

(iii) Housing Consumers Protection Measures Act, 1998 (Act 95 of 1998)

The Act provides for the establishment of a statutory regulating body for home builders. The National Home Builders Registration Council (NHBRC) is tasked with registering every builder and regulating the home building industry by formulating and enforcing a code of conduct.

The Act provides for the protection of housing consumers by providing warranty protection against defects in new homes. The implementation of the Act is monitored continuously by the department.

(iv) Rental Housing Act, 1999 (Act 50 of 1999)

This Act repeals the Rent Control Act of 1976 and defines Government's responsibility for rental housing property. It creates mechanisms to promote the provision of rental housing and the proper functioning of the rental housing market. To facilitate sound relations between tenants and landlords, it lays down general requirements for leases and principles for conflict resolution in the rental housing sector. It also makes provision for the establishment of Rental Housing Tribunals and defines the functions, powers and duties of such tribunals.

(v) Home Loan and Mortgage Disclosure Act, 2000 (Act 63 of 2000)

The Act provides for the establishment of the Office of Disclosure and the monitoring of financial institutions serving the housing credit needs of communities. It requires financial institutions to disclose information and identifies discriminatory lending patterns.

(vi) Western Cape Housing Development Act, 1999 (Act 6 of 1999)

This Act provides for the promotion, facilitation and financing of housing facilities in the Western Cape.

(vii) Other legislation

- Land Use Planning Ordinance 1985 (Ord. 15 of 1985) LUPO;
- Less Formal Township Establishment Act 1991 (Act 13 of 1991) LEFTE;
- Western Cape Less Formal Township Establishment Amendment Act 2007 (Act 6 of 2007) WC-LEFTE;
- Sectional Title Act 1986 (Act 95 of 1986);
- Disestablishment of South African Trust Limited Act 2002 (Act 26 of 2002); and
- Housing Development Agency Act (Act 23 of 2008).

(viii) Planned Legislation

The National Department of Human Settlements has recently tabled the following bills:

- The Sectional Titles Management Bill, to deal with the management and administration of sectional titles schemes; and

- The Community Scheme Ombud Service Bill, to establish a dispute resolution mechanism for all community housing schemes.⁶

The National Minister of Human Settlements, announced in his Budget Vote Speech (2009) that there will be several legislative amendments to existing legislation as well as the development of some new legislation in the foreseeable future. These legislative interventions are being developed to address the current legislative gaps and weaknesses in order to accelerate the delivery of housing opportunities. They include:

- Amendments to the Housing Act, to align it with the ethos, principles and intention that underpins the creation of sustainable integrated human settlements;
- The Land Use Management Bill; and
- National Housing Code⁷.

The Premier of the Western Cape announced in the State of the Province Address (2010) that she had submitted for review to the President a number of onerous national housing and planning legislation, which requires streamlining. This would ensure optimal delivery of integrated human settlements.

The Premier furthermore announced in the State of the Province Address that the Provincial Government is currently reviewing all provincial spatial planning legislation with the aim of consolidating it into one Act that streamlines, simplifies and clarifies roles and responsibilities regarding land use planning.

Policy Mandates

(i) National Spatial Development Perspective (NSDP), 2002

The NSDP became national policy in 2002 and remains in place. It demonstrates the high levels of deprivation which often coincides with areas of high economic growth potential. The NSDP provides a framework for the development of the national space economy.

(ii) Provincial Spatial Development Framework (PSDF), 2005

The Framework sets out “an integrated social, economic and environmental framework” for the spatial development

of the province in order to guide public and private investment.

Flowing from the NSDP, the PSDF argues that public capital investment, including expenditure on housing, should be directed towards towns and regions of high growth potential. The PSDF also provides norms about the nature of physical development within human settlements.

(iii) “Breaking New Ground” (BNG) - A comprehensive plan for the development of sustainable human settlements, 2004

“Breaking New Ground”, first tabled in 2004, remains the national government’s policy framework for housing. The framework provides for several programmes which were formulated as strategic objectives. The programmes are as follows:

- Stimulating the Residential Property Market;
- Spatial Restructuring and Sustainable Human Settlements;
- Social (Medium-Density) Housing Programme;
- Informal Settlement Upgrading Programme;
- Institutional Reform and Capacity building;
- Housing Subsidy Funding Systems Reforms; and
- Housing and Job Creation.

The BNG policy also provides the policy impetus for assigning the housing function to municipalities. The BNG states that a framework should be established “to address various legislative and policy gaps to enable municipalities to manage the full range of housing instruments within their areas of jurisdiction”.

Minister’s Statment

The department of Human Settlements came into being at the beginning of the 2010/11 financial year through the splitting of the Department of Local Government and Housing into its component portfolios. We also appointed a new Head of Department to lead this new department. 2010/11 was also the year in which this new department received the mandate from the Provincial Cabinet to institutionalise and facilitate the implementation of Provincial Strategic Objective 6: Developing integrated and sustainable human settlements for all.

PSO 6 has two horizons – a long-term and a short- to medium-term one. In the long term, it seeks to achieve

⁶ These Bills are in the process of being finalised by Parliament.

⁷ These amendments have not been brought to Parliament yet.

better co-ordination among different sectors within and between government spheres, so that the communities we develop are sustainable; have access to all the amenities they need; and are connected to economic and social opportunities. We aim to achieve both economic and social inclusion in the way we develop; and that requires all stakeholders to gravitate around a common vision, and work towards realising that vision. It also requires that those stakeholders (including internal stakeholders) be open to innovation in urban design. We cannot continue to provide row upon row of BNG houses and expect those communities to be sustainable. We have to increase densities and put more emphasis on the shared spaces we design.

In the shorter term, we must acknowledge our limited means in the face of a massive demand. This requires us to do less for more over the first five years by increasing our emphasis on access to basic services and the provision of serviced sites. As you will read in the Accounting Officer's Overview, implementing this priority shift is arguably our greatest challenge, and we fell short of our targets for 2010/11. There is a tremendous amount of inertia in government – at all spheres – due to capacity constraints, our regulatory framework and resistance to change. Change management requires a clarity of vision and strong leadership. While we fell short of some of our targets in 2010/11, I believe we have laid a good foundation to put our province on a path towards integrated and sustainable human settlements for all.

Accounting Officer's Overview

The 2010/11 financial year marked the first year of implementation of the Provincial Government Strategic Objective 6 – Optimising Human Settlement Integration (also known as PS06) and the Department's Five Year Strategic Plan 2010/11-2014/15.

One of the key policy shifts of the PS06 is to provide more people with access to basic services (with no increase in budget) by increasing our provision of serviced sites and scaling down on our building of top structures during the first 5 years i.e. 2010-11 -2014,-15.

For this key policy shift to be successful it however requires drastic transformation in the way we have to do things across all spheres of government in a number of areas which includes:

- Strategy & Policy
- Structural
- Systems
- Skills
- Staffing
- Leadership Style
- Shared Vision

Noting the above the first year's main focus was laying the foundations in respect of the above areas with critical focus on the first, second and last bullets.

The year in review therefore, resulted in a number of successes as well as challenges in relation to the development and implementation of our new strategy.

Some of the key successes included:

- A smooth transition from the department of local government and housing into the single department of human settlements.
- The full alignment of the national outcome 8 and provincial objective 6 which relate to human settlements' departmental 5 year strategic plan and Annual Performance Plan.
- The development of a number of policy guidelines and research to ensure a more fairer and equitable beneficiary allocation process and housing demand data. In this regard the policy basis for equitable allocation to back-yarders was a key area.
- Beginning the process to develop our long term planning i.e. VISION 2030 in respect of human settlements.
- Beginning the process to develop more effective housing demand data systems data for all municipalities.
- The establishment of a Portfolio and Project Management Back Office to develop and institutionalise a culture of Portfolio and Project Management and re-engineer our entire business model towards a portfolio and project driven approach.

- The establishment of a database of service providers to provide professional resource support to municipalities in the delivery of housing.
- Initiating a process to upgrade all our ICT and IT infrastructure to support our new strategy business model. This included an entire technology refresh i.e. hardware, software, supporting equipment and ICT infrastructure.
- Increased focus on development and enhancement of PHP policies and processes and up scaling of the unit to ensure better quality assurance of PHP built houses.
- Accreditation of the City Of Cape Town to level 2.

Our key challenge was that we only managed to deliver 11 141 serviced sites against a target of 18 000 and 11 860 housing units against a target of approximately 15 000.

The underlying reasons for the underperformance were both historical as well as a result of it being the first year of implementation of a new strategy. Some of the root causes include:

1. Municipalities vision, strategies, policies, plans and systems not yet aligned to the Provincial strategy.

2. The Departments own business model, and systems (service delivery, supply chain, performance reporting, information management) skills and staffing not yet fully aligned to the strategy.
3. Issues of bulk infrastructure problems, with emphasis on the CoCT underperformance in respect of serviced sites.
4. Resistance to change by some stakeholders.

Reflecting on the past year under review we realize that the strategic shift from a focus of top structures to service sites in order to benefit more people can be likened to changing the direction of an oil tanker. However, we are confident that the policy, structural, institutional and systemic basis has been laid that will ensure that the department meets its strategic objectives going forward. Our new model based upon support to municipalities through enhancing their systems, providing them with the necessary skills and staffing to package their projects and monitor their implementation, the support in up scaling their skills set in respect of portfolio and project management etc. will begin to bear its fruit.