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SYSTEMIC INVESTIGATION INTO ALLEGED FAILURE BY THE CITY OF CAPE TOWN METROPOLITAN MUNICIPALITY TO PROVIDE BASIC MUNICIPAL SERVICES IN LANGA FLATS AND KHAYELITSHA TOWNSHIP.

PUBLIC PROTECTOR
SOUTH AFRICA

A CENTRE OF EXCELLENCE

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LIST OF ACRONYMS / ABBREVIATIONS

ACRONYMS AND ABBREVIATIONS	DESCRIPTION
ART	Antiretroviral Therapy
Cape Town Metropolitan Municipality Allocation Policy: Housing Opportunities	Cape Town Metropolitan Municipality Allocation Policy: Housing Opportunities, 2022 (Policy Number 11969)
CoCT	City of Cape Town Metropolitan Municipality
Constitution	Constitution of the Republic of South Africa, 1996
DSD	Provincial Department of Social Development
Eskom	Eskom Holdings SOC Ltd
Hospital	Khayelitsha District Hospital
ISP	Informal Settlements Management
INEP	Integrated National Electrification Programme
Mayor	Executive Mayor
Local Government: Municipal Structure Act	Local Government: Municipal Structure Act, 1998
Municipal Systems Act	Local Government: Municipal Systems Act, 2000

EXECUTIVE SUMMARY

(i) This is a report of the Public Protector issued in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) read with sections 8(1) and (3) of the Public Protector Act, 1994.

(ii) The report is issued in connection with a systemic investigation stemming from complaints received regarding lack of provision of basic municipal services by the City of Cape Town (CoCT) in N2 Gateway – Joe Slovo (Langa Flats) and Khayelitsha townships.

(iii) The complaints were lodged during the Public Protector's Annual Roadshows held on 07 March 2022 and between 17 – 21 April 2023, respectively.

(iv) In essence, the Complainants alleged, *inter alia*, that CoCT failed to:

(a) Address the multitude of complaints concerning the inadequate maintenance of the sewerage infrastructure at Langa Flats;

(b) Ensure cleanliness in Langa Flats, necessitating that each household contribute One Hundred Rand (R100) to employ an individual to clean the communal areas of the flats, a duty that should rightfully fall under the CoCT's obligations as the landlord;

(c) Address the residents' requests to sign Lease Agreements, while at the same time expecting monthly rental payments despite the absence of formal agreements;

(d) Transfer the flats to residents in *lieu* of the Provincial Government's assurance that upon transfer of the flats to the CoCT, the flats will subsequently be transferred to the residents and they will be issued with title deeds;

(e) Ensure the upkeep of road infrastructure by repairing potholes, addressing overflowing sewage issues and fixing leaks that lead to water accumulation on the streets;

(f) Implement immediate, short-term and long-term strategies, mechanisms or initiatives to deal with the difficulties faced by the residents of Langa Flats and Khayelitsha townships in obtaining essential services from the CoCT; and

(g) Develop educational awareness initiatives and communication efforts regarding the status of housing projects or programs being executed by the CoCT, which result in land invasions and increased vandalism of CoCT property.

(h) Develop a mechanism to adequately respond to complaints, ineffective communication and insufficient feedback from CoCT;

(i) Insufficient collection of solid waste, resulting in an overall unkempt environment; and

(j) Ensure that the local clinics are adequately resourced to provide primary health care services.

(v) Based on the analysis of the complaint, the following issue was considered and investigated:

(a) Whether the provision of basic municipal services by the functionaries of CoCT to the residents of Langa Flats and Khayelitsha townships are rendered in a progressive and effective manner as contemplated in the

Constitution and the law, if not, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration and improper prejudice in terms of section 6(4)(a)(i) and (v) of the Public Protector Act.

(vi) The investigation was conducted in terms of section 182(1) of the Constitution and section 6(4) of the Public Protector Act. It included an analysis of all the relevant documents, application of relevant laws, case law, and related prescripts.

(vii) **Notice issued in terms of section 7(9)(a) of the Public Protector Act**

(a) Section 7(9)(a) of the Public Protector Act, provides that, *"if it appears to the Public Protector during the course of an investigation that any person is being implicated in a matter being investigated and such implication may be to the detriment of that person or that an adverse finding pertaining to that person may result, the Public Protector shall afford such person an opportunity to respond therewith in any manner that may be expedient under the circumstances".* A section 7(9)(a) Notice, dated 18 March 2025, was served on the following persons to afford them an opportunity to make representations regarding the likely findings and remedial action, namely:

(aa) Mr Anton Bredell, the MEC for Western Cape Local Government;

(bb) Mr Geordin Hill-Lewis, the Executive Mayor for the Cape Town Metropolitan Municipality; and

(cc) Mr Lungelo Mbandazayo, the Municipal Manager for the Cape Town Metropolitan Municipality.

(dd) Responses were received from Mr Bredell on 25 March 2025 and from Ms Sayed, Director: Legal Department of CoCT, on behalf of Executive Mayor Mr Hill-Lewis and the Municipal Manager: Mr Mbandazayo on 11 April 2025.

(viii) ***Interventions by the CoCT***

(a) The Public Protector notes the interventions undertaken by the City of Cape Town (CoCT) to remedy service delivery deficits identified during inspections and engagements with residents from the onset of the investigation. These actions demonstrate accountability and responsiveness, even before the conclusion of the investigation:

- **Housing and sanitation**

(i) Langa Flats: Sewer repairs; tender initiated for beneficiary verification, occupancy surveys; feasibility studies and compliance checks with sectional title legislation;

(ii) Langa Zone 20: main sewer line repaired after fourteen years; blockages now manageable; and

(iii) SST-Marikana: Portable ablution facilities provided; multiple repairs to toilets, standpipes, gullies and cisterns; plans for additional taps and toilets underway.

- **Roads and infrastructure**

(i) Resurfacing of Japhta Masemola and other roads;

(ii) Pothole repairs at Walter Sisulu Road;

(iii) Sewage overflow in Ngcubeni Street repaired;

(iv) Construction activities ongoing; and

(v) High mast lighting repairs in Blowie Informal Settlement.

- **Health facilities**

(i) Launch of the Elula Project for IT modernisation initiative for healthcare;

(ii) Clinics upgraded with smoke/fire detectors, heat sensors, fire blankets, alarm sirens, and generators for back-up power;

(iii) Staff safety enhanced with portable panic buttons linked to Law Enforcement; and

(iv) Continuous interventions to address capacity constraints at the clinics security challenges and safety mechanisms

- **Support for vulnerable residents**

(i) Prioritisation of an elderly wheelchair-bound resident, for relocation to a suitable care facility.
(ii) Food parcels and social worker support arranged by the Department of Social Development.

- **Sewer infrastructure**

  (i) Major sewer line repairs in Khayelitsha, JK Masemola Road with over-pumping machinery, excavation, and stakeholder engagement;

  (ii) Relocation of residents and demolition of structures built over collapsed sewer lines; and

  (iii) Ongoing negotiations with PRASA for relocation land.

- **Collaboration & Oversight**

  (i) Daily monitoring and cleaning initiatives in Langa, supported by EPWP staff.

  (ii) Waste collection skips placed at community centres.

(b) The Public Protector acknowledges the proactive steps taken but encourages the CoCT to continue addressing the remaining deficiencies and ensure sustained action to minimise prejudice suffered by residents and enhance service delivery.

(ix) Having regard to the evidence and regulatory framework determining the standard that should have been complied with by the CoCT, the Public Protector makes the following findings:

(a) Whether the provision of basic municipal services by the functionaries of the CoCT to the residents of Langa Flats and Khayelitsha townships

are rendered in a progressive and effective manner as contemplated in the Constitution and the law, if not, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration and improper prejudice in terms of section 6(4)(a)(i) and (v) of the Public Protector Act.

(aa) The allegation that basic municipal services are not rendered in conformity with the Constitution and the law, is **substantiated.**

Investigation in respect of Langa Flats

Lease Agreements

(bb) The CoCT has not been able to sign lease agreements with all residents of Langa Flats. The inability to sign lease agreements with residents impedes the duty by the state to put legislative and other measures in place to progressively realise the right of access to adequate housing as envisaged in section 26(2) of the Constitution and Item 3.3.2 of the Cape Town Metropolitan Municipality Allocation Policy: Housing Opportunities, 2022 (Policy Number 11969).

(cc) The CoCT's inability to sign lease agreements with Langa Flats residents is in contravention of the Rental Housing Act, which requires written lease agreements and undermines residents' security of tenure protected under section 26 of the Constitution, exposing residents to uncertainty, disputes, and vulnerability to arbitrary eviction, while depriving the CoCT of enforceable mechanisms for rental collection, maintenance obligations and lawful enforcement of tenancy terms.

Structural Housing Defects and Common Areas and Fire Safety Equipment

(dd) The CoCT has not been able to fully repair the sewer infrastructure at Langa Flats, fire rails and cracked housing unit walls and common areas are still untidy violating the residents' rights to an environment that is not harmful to their well-being as envisaged in section 24(a) of the Constitution read with item 7.2.2.1 of the City of Cape Town Water and Sanitation Policy of 2023.

(ee) The failure by CoCT to repair and maintain fire safety equipment has a direct bearing on the constitutional rights to life, dignity and adequate housing under sections 11, 10, and 26 of the Constitution.

(ff) Section 73(1)(a) of the Municipal Systems Act, 2000 reinforces this imperative by requiring that municipal services be provided in a manner that is equitable and sustainable, while section 156(1) of the Constitution empowers municipalities with both the authority and responsibility to enforce bylaws that secure safe working conditions for contractors and protect critical infrastructure.

(gg) The CoCT's sustained failure to restore functional fire hose reels and extinguishers, despite multiple commitments, violates section 152(1)(d) of the Constitution and exposes residents to unconscionable life-threatening risks that could be mitigated through reasonable alternative delivery approaches within the municipality's constitutional and statutory powers.

SST-Marikana

Access to water

(hh) The CoCT has not provided residents of SST- Marikana with access to adequate water in violation of section 27(1)(b) of the Constitution, which

guarantees the right of access to sufficient water and undermined the rights of local communities in terms of section 5 of the Municipal Systems Act, to receive services from the municipality.

(ii) The CoCT's failure to provide residents of SST-Marikana with access to adequate water reflects non-compliance with the duties imposed on municipal administration under sections 6, 73, 76, and 79 of the same Municipal Systems Act, which requires municipalities to provide basic municipal services impartially, fairly, equitably and without bias.

Non-functional High Mast Lights

(jj) The CoCT has been unable to repair the high mast lights at SST-Marikana exposing residents to the risk of violence from criminal elements during the night offending the rights of residents to freedom and security of their person protected in section 12 of the Constitution.

(kk) CoCT has not been able to engage with Eskom prior to the relocation of residents in breach section 41(1)(h) of the Constitution requiring all spheres of government to coordinate their actions to avoid prejudice to communities' welfare, safety and security.

(ll) By relocating residents without facilitating engagement with Eskom to ensure service continuity, CoCT breached its positive duties under sections 152(1)(b) and (d) of the Constitution to ensure sustainable service provision and to promote safe and healthy environments.

(mm) However, following further intervention, the CoCT was able to engage with Eskom at the time of the relocation of residents, as contemplated by section 41(1)(h) of the Constitution, which requires all spheres of government to

coordinate their actions to avoid prejudice to communities' welfare, safety, and security. This also relates to the CoCT's positive duties under sections 152(1)(b) and (d) of the Constitution to ensure sustainable service provision and promote safe, healthy environments.

(nn) Despite the CoCT having met its obligation to engage Eskom during the relocation process, residents remain without electricity. This situation highlights challenges in remedying service delivery deficiencies and raises concerns regarding full compliance with the Municipal Systems Act, which mandates that municipalities deliver services fairly and without discrimination.

Mathew Goniwe and Town Two Clinics

Smoke and Fire Detectors

(oo) The CoCT failed to install smoke detectors at Mathew Goniwe and Town Two clinics for prompt detection of a possible fire, which places the safety of staff and health care users at risk of prompt escape should a fire break out which is a breach of section 8(2)(c) and 9(1) of the Occupational Health and Safety Act, 1993.

Security

(pp) The CoCT failed to install CCTV surveillance at Mathew Goniwe and Town Two Clinics, which is a breach of its constitutional obligations under section 27(1)(a) of the Constitution to ensure equitable and safe access to healthcare services and as reinforced by the National Health Act's mandate for municipal health facility safety standards.

Governance, Bylaw Enforcement, and Community Engagement

(qq) The CoCT has a deficiency in the enforcement of land use bylaws, creating an opportunity for unlawful construction of informal structures on critical sewer servitudes, directly precipitated infrastructure collapse and recurring blockages that compromise residents' constitutional rights to adequate sanitation under section 27(1)(b) of the Constitution and a breach of the CoCT's positive duties under sections 152(1)(b) and 156(1) of the Constitution to ensure sustainable service delivery and exercise executive authority through effective bylaw implementation.

Health Environment

(rr) The CoCT's ability to collect waste four to five times weekly does not negate the ongoing prevalence of refuse accumulation and illegal dumping, which exposes residents to health hazards is in breach of section 24(a) of the Constitution, which provides that everyone has the right to an environment not harmful to their health and section 9 of the National Environmental Management: Waste Act, 2008 and section 73(2) of the Municipal Systems Act obligates the CoCT to ensure accessible, equitable waste services.

(ss) The municipality's failure to implement reasonable measures within available resources as required by the Constitutional Court's judgment in the matter of *Grootboom* and *Treatment Action Campaign* jurisprudence, coupled with its inadequate response to three (03) years of documented service delivery deficiencies despite multiple commitments and undertakings, establishes a pattern of conduct that falls squarely within the definition of improper conduct under section 182(1)(a) of the Constitution. Furthermore, the demonstrable prejudice caused to residents through ongoing exposure to life-threatening risks, compromised living conditions and systematic deprivation of basic services constitutes maladministration and prejudice as envisaged in sections

6(4)(a)(i) and (v) of the Public Protector Act, thereby triggering the Public Protector's constitutional mandate to address such conduct and direct appropriate remedial action to restore constitutional compliance.

(tt) The sustained pattern of service delivery failures by CoCT functionaries encompassing compromised fire safety equipment, structural housing defects, inadequate sanitation infrastructure, healthcare facility safety deficits and electricity coordination failures constitutes a comprehensive violation of residents' fundamental rights under sections 10 (human dignity), 24 (environmental health), 26 (adequate housing), and 27 (healthcare and water) of the Constitution. These systemic failures demonstrate the CoCT's breach of the constitutional values and principles enshrined in section 195(1), which mandate accountability, responsiveness, transparency and efficiency in public administration, while simultaneously contravening section 4 of the Municipal Systems Act, which requires that municipal administration be governed by democratic values and be responsive to community needs.

(x) **OBSERVATIONS**

(a) In light of the above information and evidence, the Public Protector makes the following observations:

(aa) While the CoCT has implemented various measures to address service delivery challenges in Langa Flats and Khayelitsha, the sustainability and effectiveness of these interventions have been constrained by resource limitations, competing service delivery priorities and infrastructure backlogs.

(bb) Throughout the investigation, the CoCT repeatedly indicated that several critical interventions, including the rehabilitation of ageing

sewerage infrastructure, installation of CCTV systems at clinics, provision of backup power, maintenance of public infrastructure, and security enhancements, could not be fully implemented due to budgetary constraints and limited financial resources.

(cc) The evidence further demonstrates that significant portions of the municipal budget have been diverted or reprioritised as a result of unforeseen circumstances, including land invasions, vandalism of public infrastructure, criminality, and escalating maintenance demands associated with rapidly growing informal settlements. These factors have increased the financial burden on the municipality and have affected its ability to progressively realise the constitutional rights of residents to access basic municipal services.

(dd) Furthermore, the investigation revealed that certain systemic challenges, particularly the replacement of collapsed sewerage infrastructure in informal settlements, require substantial capital investment and coordinated support from all spheres of government. Municipal officials indicated that funding allocated for the rehabilitation, augmentation and maintenance of sewerage infrastructure had to be committed within prescribed financial periods, failing which such allocations would be redirected to other projects, illustrating the financial pressures under which the municipality operates.

(ee) While these financial constraints do not absolve municipalities from their constitutional obligations to progressively realise socio-economic rights within available resources, the persistent service delivery challenges identified in this report raise broader questions regarding whether the existing intergovernmental fiscal framework and equitable allocation of nationally raised revenue sufficiently support

municipalities with extensive informal settlements and significant infrastructure backlogs.

(ff) The Public Protector recognises that the national fiscus is subject to competing demands and that the National Treasury is constitutionally required to balance the allocation of nationally raised revenue among the three spheres of government within the limits of available resources. The Public Protector does not suggest that additional funding should automatically be allocated to the CoCT. Rather, having regard to the systemic service delivery challenges identified during the investigation, recommends that the Minister of Finance, in exercising the constitutional responsibilities contemplated in sections 214 and 227 of the Constitution assesses, in consultation with the relevant national and provincial stakeholders, whether the existing fiscal allocations and funding mechanisms adequately support municipalities with extensive informal settlements, ageing infrastructure and increasing service delivery demands.

(gg) Such an assessment is consistent with the constitutional framework governing equitable revenue allocation and cooperative governance and may assist in determining whether the current funding arrangements sufficiently enable municipalities to progressively realise constitutional rights and fulfil their obligations relating to the provision of basic municipal services or additional fiscal measures or adjustments are necessary.

(xi) **Response to Public Protector Correspondence, dated 23 June 2026**

(a) On 23 June 2026, the Public Protector provided the CoCT with correspondence indicating her intention to publish a report on 30 June 2026. Attached to the Public Protector's correspondence to the CoCT was an unsigned report.

(b) The CoCT responded on 29 June 2026, disputing certain findings and proposed remedial action. It submitted, amongst others, that the report did not adequately reflect the CoCT's extensive cooperation during the investigation, failed to consider recent developments and ongoing interventions, and incorrectly characterised certain aspects relating to public housing, electricity supply, public health facilities and the scope of the CoCT's constitutional obligations.

(c) The CoCT further highlighted operational challenges, including funding constraints, vandalism, unlawful occupation, ageing infrastructure, and the respective mandates of other organs of state, particularly Eskom.

(d) The Public Protector carefully considered all the additional information submitted by the CoCT. Where appropriate, factual clarifications were incorporated into the report, including references to the Community Residential Units (CRU) Programme, the City's engagement with Eskom, and the applicable fire safety regulatory framework. However, the Public Protector remained satisfied that the evidence obtained during the investigation, including documentary evidence, *inspections in loco* and stakeholder engagements, established instances of maladministration relating to the matters investigated. The representations did not disclose any basis warranting a departure from the findings or remedial action contained in this report.

(xii) **RECOMMENDATIONS**

Having identified systemic issues relating to the adequacy of the existing fiscal framework, the Public Protector considers it appropriate, in terms of section 182(1)(c) of the Constitution read with section 6(4)(c)(ii) of the Public Protector Act, to recommend that:

The Minister of Finance

(e) Within six (06) months of receipt of this report, and in the exercise of the constitutional responsibilities contemplated in sections 214 and 227 of the Constitution, engage with the Minister for Human Settlements, the Minister for Cooperative Governance and Traditional Affairs, the Provincial Government of the Western Cape and the City of Cape Town to assess whether the existing intergovernmental fiscal framework, equitable share allocations and other funding mechanisms adequately support municipalities experiencing significant infrastructure backlogs, extensive informal settlements and increasing service delivery demands.

(f) In conducting the assessment, consider the extent to which existing fiscal allocations and funding mechanisms enable municipalities to progressively realise the constitutional rights of residents to access basic municipal services, taking into account the competing demands on the national fiscus and the need to balance the equitable distribution of nationally raised revenue among the three spheres of government.

(g) Within sixty (60) days after completion of the assessment, submit a report to the Public Protector setting out:

(i) the outcome of the assessment;

(ii) whether the existing fiscal framework is considered adequate to support municipalities facing the identified systemic challenges;

(iii) any measures considered or implemented within the Minister's constitutional and statutory mandate to strengthen the funding framework, where necessary; and

(iv) any further recommendations or engagements proposed to enhance the capacity of municipalities to fulfil their constitutional obligations relating to the provision and maintenance of basic municipal services.

The Minister of Human Settlements

(h) The Public Protector takes cognisance of the constitutional and legislative framework governing cooperative governance, in particular section 41 of the Constitution of the Republic of South Africa, 1996, which requires all spheres of government and organs of state to respect, secure and co-operate with one another in mutual trust and good faith, and to co-ordinate their actions and legislation in order to achieve the objectives of government as a whole.

(i) In light of the findings and observations contained in this report, the Public Protector is of the view that the Minister for Human Settlements should take cognisance of the issues identified herein, particularly insofar as they relate to intergovernmental coordination, planning alignment, and the effective delivery of human settlements within the framework of cooperative governance. This is necessary to ensure that national human settlements policy and implementation mechanisms are responsive to municipal realities and are implemented in a manner that promotes efficiency, accountability, and the progressive realisation of constitutional obligations.

The Minister of Cooperative Governance and Traditional affairs

(j) The Public Protector recommends that the Minister for Cooperative Governance and Traditional Affairs, in line with the principles of cooperative governance as set out in section 41 of the Constitution of the Republic of South Africa, 1996, should strengthen and, where necessary, enhance existing intergovernmental coordination mechanisms to ensure improved alignment between national, provincial, and local spheres of government in the planning and implementation of service delivery programmes.

(k) In particular, the Minister is encouraged to review the effectiveness of current frameworks and structures designed to facilitate intergovernmental relations, with a view to addressing any identified gaps that may hinder timely collaboration, integrated planning, and efficient implementation of development and service delivery initiatives.

(l) Furthermore, the Minister should promote structured engagement between relevant sector departments, including the Minister for Human Settlements and the Minister of Finance, to ensure that planning priorities, policy objectives, and funding arrangements are adequately coordinated to support sustainable human settlements and effective municipal service delivery outcomes.

(xiii) In the matter of the *Economic Freedom Fighters v Speaker of the National Assembly and Others: Democratic Alliance v Speaker of the National Assembly* and Others the Constitutional Court per Mogoeng, CJ held that the remedial action taken by the Public Protector has a binding effect.

(xiv) Having regard to the evidence, the regulatory framework determining the standard that functionaries of CoCT should have complied with, the Public Protector is taking the following remedial action in terms of section 182(1)(c) of

the Constitution:

The Executive Mayor

(a) To note the remedial action issued against the functionaries of the CoCT and ensure its implementation by the Municipal Manager in terms of section 56(3)(c) and (e) of the Municipal Structures Act.

(b) Within **sixty (60) calendar days** from the date of receipt of this report, table the report to the Municipal Council for discussion in line with his/her powers and functions in terms of section 56 of the Municipal Structures Act.

The Municipal Manager

(c) Within **thirty (30) calendar days** from the date of receipt of this report, ensure that residents of the SST-Marikana Informal Settlement have access to water, in accordance with the commitment made by the CoCT in its response dated 01 December 2025, and provide the Public Protector with an action plan for the installation of additional water taps and sanitation facilities. This should take into account the ongoing engagements with the Reticulation Branch aimed at securing the necessary approvals, particularly in the absence of relocation to a site that meets the minimum standards for basic human settlement, in accordance with sections 27, 152 and 153 of the Constitution and the City's obligations to provide equitable and accessible basic municipal services.

(d) Within **one hundred and twenty (120) calendar days** from the date of receipt of this report, take measures, in accordance with sections 24, 152

and 153 of the Constitution, section 73 of the Local Government: Municipal Systems Act and the Water Services Act, ensure that long-term repairs to the sewerage infrastructure at Langa Flats and Khayelitsha townships are effected, and submit to the Public Protector detailed short- and long-term rehabilitation strategies aimed at ensuring the sustainable provision of sanitation services and the protection of a safe and healthy environment;

(e) Within **six (06) months** from the date of receipt of this report, and in accordance with sections 26, 152 and 153 of the Constitution, the Local Government: Municipal Systems Act, and the Upgrading of Informal Settlements Programme under the National Housing Code, provide the Public Protector with a detailed action plan concerning the regularisation initiative proposed by the CoCT. The action plan must outline the key components of the initiative, identify responsible officials, and specify implementation timeframes up to and including the conclusion and signing of lease agreements with affected occupants;

(f) Within **sixty (60) calendar days** from the date of receipt of this report, and in accordance with sections 24, 152 and 153 of the Constitution and section 73 of the Local Government: Municipal Systems Act, develop and submit to the Public Protector a strategy to ensure the provision of sustainable and long-term cleaning services at Langa Flats, including clear implementation measures, responsible officials, and monitoring mechanisms aimed at maintaining a safe, healthy and dignified living environment for residents;

(g) Within **thirty (30) calendar days** from the date of receipt of this report, and in accordance with sections 152(1)(b) and (d), 152(1)(d) and 153(a) of the Constitution, as well as section 73 of the Local Government:

Municipal Systems Act:

(h) Engage with Eskom and any other relevant stakeholders to identify and implement measures to restore the functionality of non-operational high-mast lights in Khayelitsha township and other affected human settlements within the CoCT area. The CoCT must provide the Public Protector with a report outlining the agreed interventions, responsible stakeholders, and implementation timeframes; and

(i) Submit to the Public Protector a comprehensive long-term plan for the maintenance and upkeep of high-mast lights situated in Khayelitsha township and other surrounding human settlements within the CoCT area. The plan must include maintenance schedules, budgetary considerations, responsible officials, monitoring mechanisms, and measures to ensure the continued provision of safe and reliable public lighting services.

(j) Within **sixty (60) calendar days** from the date of receipt of this report, and in accordance with sections 26, 152 and 153 of the Constitution, the Housing Act, the Local Government: Municipal Systems Act, and the Upgrading of Informal Settlements Programme under the National Housing Code, engage with Eskom to identify and implement measures to prioritise the electrification of the ten (10) relocated families. The CoCT must collaborate with Eskom and affected communities to secure the necessary consent for electrification. Alternatively, subject to the availability of suitable land, the CoCT must take steps to relocate the ten (10) families to a site that complies with the minimum standards for basic human settlement and access to basic municipal services.

(k) Within **six (06) months** from the date of receipt of this report, and in

accordance with sections 24 and 27 of the Constitution, the National Health Act, and the Occupational Health and Safety Act put measures in place to ensure that health facilities are equipped with smoke detectors or other appropriate early fire-warning mechanisms. The measures must include implementation timeframes, maintenance protocols, and monitoring mechanisms to safeguard the health, safety and well-being of patients, staff and visitors.

The MEC for Local Government

(l) To monitor the CoCT's implementation of remedial action on a quarterly basis and consider, in accordance with his/her discretionary powers under section 139 of the Constitution, whether intervention may be necessary should substantial non-compliance occur, and report such considerations to the Provincial Legislature in terms of section 133 of the Constitution.

1. INTRODUCTION

1.1. This is a report of the Public Protector issued in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) read with section 8(1) of the Public Protector Act, 1994.

1.2. The report is submitted in terms of sections 8(1) and (3) of the Public Protector Act, which empowers the Public Protector to make known the findings of an investigation, to implicated and affected parties for such persons to note the outcome of the investigation and to implement the remedial action where applicable. The report is issued to the following persons:

1.2.1 Mr Enoch Godogwana, Minister of Finance;

1.2.2 Ms Thembi Simelane, Minister for Human Settlements;

1.2.3 Mr Velenkosini Hlabisa, Minister for Cooperative Governance and Traditional Affairs;

1.2.4 Mr Anton Bredell, MEC for Local Government;

1.2.5 Mr Geordin Hill-Lewis, Executive Mayor for Cape Town Municipality;

1.2.6 Mr Lungelo Mbandazayo, Municipal Manager for Cape Town Municipality;

1.2.7 Lt Gen T Patekile, Western Cape Provincial Commissioner of the South African Police Service; and

1.2.8 Mr Mbulelo Yedwa, General Manager of Eskom Holdings SOC Ltd in Bellville.

1.3. This report is issued in connection with a systemic investigation initiated due to concerns regarding service delivery failures expressed by the residents of N2 Gateway – Joe Slovo (Langa Flats) and Khayelitsha townships during the Public Protector's Annual Roadshows conducted in the Western Cape Province on 07 March 2022 and 17 – 21 April 2023, respectively.

2. THE COMPLAINT

2.1. The investigation emanates from complaints received by the Public Protector from the residents of Langa Flats and Khayelitsha townships regarding allegations that the Cape Town Metropolitan Municipality (CoCT) failed to provide basic services and infrastructure.

2.2. On 07 March 2022, the Public Protector conducted an *in loco* inspection of Langa Flats and Khayelitsha townships. During the visit, residents raised concerns regarding the City of Cape Town's (CoCT) apparent inability to develop and implement immediate, short-term, and long-term programs to effectively address the persistent service delivery challenges experienced in these communities.

Langa Flats inspection in loco

2.3. During the Public Protector's visit to Langa Flats, accompanied by the Executive Mayor of the City of Cape Town (CoCT), Mr Geordin Hill-Lewis and municipal officials, residents raised several concerns relating to service delivery, infrastructure maintenance and housing administration within their community.

2.4. Key issues highlighted by residents include:

2.4.1 CoCT's alleged failure to address multiple complaints concerning the inadequate maintenance of sewerage infrastructure at Langa Flats;

2.4.2 The need to ensure cleanliness within Langa Flats, noting that residents currently contribute one hundred Rand (R100) per household to employ individuals for cleaning communal areas, a responsibility that properly falls within the mandate of the CoCT;

2.4.3 The absence of formal lease agreements between residents and the CoCT, despite expectations that residents make monthly rental payments;

2.4.4 The transfer of ownership of the flats to residents, in line with prior assurances from the Provincial Government that, once the properties are transferred to CoCT, they would subsequently be transferred to the occupants, who would then receive title deeds;

2.4.5 The need for maintenance of road infrastructure, including the repair of potholes, resolution of sewage overflows, and fixing water leaks that result in pooling on streets;

2.4.6 The implementation of immediate, short-term, and long-term strategies or mechanisms to address ongoing challenges faced by residents of Langa Flats and Khayelitsha in accessing essential municipal services; and

2.4.7 The development and rollout of educational and communication initiatives to keep communities informed about the progress, challenges, and timelines of CoCT-led housing projects, particularly those affected by land invasions and vandalism of municipal infrastructure.

Khayelitsha Township inspection in loco

2.5. During the *inspection in loco* in Khayelitsha township, the Public Protector was accompanied by Ms Mbali Matiwane (Ms Matiwane), representing the CoCT. Residents raised several concerns, including:

2.5.1 Inadequate repair and maintenance of road infrastructure, potholes and unresolved issues with sewerage infrastructure and water leaks;

2.5.2 Delays or lack of response to residents' complaints, ineffective communication, and insufficient feedback from the CoCT; and

2.5.3 Insufficient collection of solid waste resulting in an overall unkept environment.

3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR

3.1. The Public Protector is an independent constitutional institution established in terms of section 181(1)(a) of the Constitution, to strengthen constitutional democracy through investigating and redressing improper conduct in state affairs.

3.2. Section 182(1)(a) of the Constitution provides that:

"(1) The Public Protector has the power, as regulated by national legislation –

(a) to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice;

(b) to report on that conduct; and

(c) to take appropriate remedial action".

3.3. Section 182(2) of the Constitution directs that the Public Protector has additional powers and functions prescribed by national legislation. The Public Protector's powers are regulated and amplified by the Public Protector Act, which states amongst others that the Public Protector has the power to investigate and redress maladministration and related improprieties in the conduct of state affairs.

3.4. Section 6(4)(a) of the Public Protector Act grants the Public Protector the authority to conduct own initiative investigations into allegations of maladministration in connection with the affairs of government at any level.

3.5. The CoCT is an organ of state as defined in section 239 of the Constitution and confirmed in section 2(a) of the Municipal Systems Act, therefore, the conduct of its functionaries amounts to conduct in state affairs. The Public Protector is satisfied that the complaint falls within its competency to investigate as envisaged in section 182(1)(a) of the Constitution and sections 6(4)(a)(i) and (v) of the Public Protector Act. Furthermore, the jurisdiction of the Public Protector was not placed in dispute.

4. ISSUE IDENTIFIED FOR INVESTIGATION

4.1. Based on the analysis of the complaints and evaluation of the information gathered during the *inspections in loco* and meetings held with the functionaries of the CoCT and residents, the following issue was identified to inform and focus the investigation:

4.1.1 Whether the provision of basic municipal services by the functionaries of CoCT to the residents of Langa Flats and Khayelitsha townships are rendered in a

progressive and effective manner as contemplated in the Constitution and the law, if not, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration and improper prejudice in terms of section 6(4)(a)(i) and (v) of the Public Protector Act.

5. THE INVESTIGATION

5.1. Methodology

5.1.1 The investigation was conducted in terms of section 182(1) of the Constitution, read with sections 6 and 7 of the Public Protector Act.

5.1.2 Section 7(1)(b)(i) of the Public Protector Act confers on the Public Protector the sole discretion to determine the format and procedure to be followed in conducting any investigation with due regard to the circumstances of each case.

5.2. Approach to the investigation

5.2.1 The approach to the investigation involved the exchange of correspondence, obtaining copies of documents, holding meetings with all role players, *inspections in loco*, analysis and evaluation of all the relevant information, consideration and application of the relevant laws, regulatory framework and policy prescripts.

5.2.2 The investigation was approached using an enquiry process that seeks to determine:

(a) What happened?

(b) What should have happened?

(c) Is there a discrepancy between what happened and what should have happened and does that deviation amount to improper conduct or maladministration?

(d) In the event of a violation of legislation, maladministration and/or improper conduct, what remedial action should be taken?

5.2.3 The question regarding what happened is resolved through a factual enquiry relying on the evidence provided by the parties and independently sourced during the investigation. Evidence evaluated and determination is made on what happened based on a balance of probabilities. In this case, the factual enquiry principally focused on whether the functionaries of the CoCT progressively took measures to ensure the delivery of basic municipal services to the residents of Langa Flats and Khayelitsha townships in conformity with the dictates of relevant legal prescripts, the Municipal Systems Act and the Constitution.

5.2.4 The enquiry regarding what should have happened focused on the law or rules that regulate the standard that should have been met by the functionaries of the CoCT in the execution of their functions and duties relating to the provision of basic municipal services to the residents of Langa Flats and Khayelitsha townships.

5.2.5 The Public Protector has concluded the investigation and based on the information and evidence obtained during the course thereof, the Public Protector is now able to make findings and take appropriate remedial action to address the improper prejudice and maladministration discovered during the investigation.

5.3 The Key Sources of Information

5.3.1 Copies of Correspondence exchanged by the Public Protector Investigation Team with the CoCT;

5.3.2 Notice in terms of *Rule 23(1) of the Public Protector Rules* from the Public Protector to Mr Hill-Lewis, dated 22 May 2022;

5.3.3 Copy of, *"Follow up on Roadshow Commitments",* dated 26 May 2022;

5.3.4 Copy of letter, from Mr Hill-Lewis to the Public Protector, dated 09 June 2022, responding to the Notice in terms of *Rule 23(1) of the Public Protector Rules;*

5.3.5 Notice in terms of *Rule 23(1) of the Public Protector Rules,* from the Public Protector to Mr Lungelo Mbandazayo*,* dated 21 December 2022;

5.3.6 Response to the Notice in terms of *Rule 23(1) of the Public Protector Rules,* from Ms Riaana Sayed to the Public Protector, dated 07 February 2023;

5.3.7 Letter titled: *"Re: Public Protector's Annual Roadshow and request meeting with the Mayor of the Cape Town Metropolitan Municipality* letter", from the Public Protector to Mr Hill-Lewis, dated 03 April 2023;

5.3.8 Letter titled: *"Re: Public Protector's Annual Roadshow and request for a meeting with the Mayor of Cape Town",* letter from the Public Protector to Mr Hill-Lewis, dated 13 April 2023;

5.3.9 Letter from the Public Protector to Langa Community Advice Service, giving feedback to Mr Sandlana, dated 08 November 2023;

5.3.10 Notice in terms of *Rule 23(1) of the Public Protector Rules,* from the Public Protector to Mr Lungelo Mbandazayo, dated 08 August 2024;

5.3.11 Letter from Ms Riaana Sayed to the Public Protector, dated 14 November 2024, responding to the Notice in terms of *Rule 23(1) of the Public Protector Rules;*

5.3.12 *"Request for Further Information and Evidence: Notice in Terms of Section 7(9)(a) of the Public Protector Act, 1994: Systemic Investigation Into Alleged Failure by Functionaries of the Cape Town Metropolitan Municipality to Provide Basic Municipal Services in Langa Flats and Khayelitsha Township"*, dated 23 May 2025.

5.3.13 Letter titled "*Invitation to a Meeting: Systemic Investigation Into Alleged Failure by Functionaries of the Cape Town Metropolitan Municipality to Provide Basic Municipal Services in Langa Flats and Khayelitsha Township"* from the Public Protector to Mr Lungelo Mbandazayo dated 22 October 2025;

5.3.14 Letter from Ms Riaana Sayed to the Public Protector, dated 24 October 2025, responding to the Invitation to a meeting;

5.3.15 Letter titled: *"Systemic Investigation Into Alleged Failure by Functionaries of the Cape Town Metropolitan Municipality to Provide Basic Municipal Services in Langa Flats and Khayelitsha Township"*, dated 31 October 2025 requesting further information from the CoCT from the Public Protector to Mr Lungelo Mbandazayo;

5.3.16 Letter titled: *"Systemic Investigation Into Alleged Failure by Functionaries of the Cape Town Metropolitan Municipality to Provide Basic Municipal Services in Langa Flats and Khayelitsha Township"*, dated 06 November 2025

requesting further information from the CoCT and proposed solutions from the Public Protector to Mr Lungelo Mbandazayo;

5.3.17 Letter titled: "*PPSA COMPLAINT: LANGA FLATS AND KHAYELITSHA SYSTEMIC INVESTIGATION - REQUESTS OF 31 OCTOBER AND 4, 6 AND 7 NOVEMBER 2025, AND INSPECTION OF 13 NOVEMBER 2025"* from Mr Zunaid Mohamed, Acting Director: Legal Services to the Public Protector, dated 02 December 2025;

5.3.18 Letter titled: "REPORT IN TERMS OF SECTION 8(1) OF THE PUBLIC PROTECTOR ACT 23 OF 1994: SYSTEMIC INVESTIGATION INTO ALLEGED FAILURE BY FUNCTIONARIES OF THE CAPE TOWN METROPOLITAN MUNICIPALITY TO PROVIDE BASIC MUNICIPAL SERVICES IN LANGA FLATS AND KHAYELITSHA TOWNSHIP", dated 23 June 2026 addressed to Mr Lungelo Mbandazayo, informing the CoCT of the Public Protector's intention to publish a report on 30 June 2026;

5.3.19 Letter from Ms Riaana Sayed from the CoCT addressed to the Public Protector, dated 29 June 2026, responding to the Public Protector's correspondence of 23 June 2026.

5.4 Documents received from CoCT

5.4.1 Copy of: "*Khayelitsha Area-Road Resurfacing and Repairs May '22",* dated 31 May 2022;

5.4.2 Copy of "*Housing: Action Plan Langa Maintenance Issues";*

5.4.3 Copy of *"Community Services and Health Directorate CoCT Health Department-Departmental Business Plan 2024/2025 Financial Year";*

5.4.4 Copy of *"PH6-Summary N2 Gateway";*

5.4.5 Copy of *"PH7-Langa Signs Ons";*

5.4.6 Copy of *"PH8-Langa House Visi Form";*

5.4.7 Copy of *"PH9-Email from line Department";*

5.4.8 Copy of *"PH10-Memo", dated 5 June 2025;*

5.4.9 Copy of "*Eastridge Clinic Organogram",* dated 23 September 2024;

5.4.10 Copy of: "*Resolutions of the Supply Chain Management Bid Adjudication Committee: 1 July 2019",* for procurement of a service provider to conduct maintenance of the sewerage infrastructure using bucket machines under tender number: 329S/2018/2029, for the period of 01 August 2019 to 20 June 2022. It is also stated that the work involves, "cleaning and removal of al silt, sand, stones and other debris from sewer interceptors from 150mm diameter and larger within the Cape Town Metropolitan Municipality";

5.4.11 Resolutions of the: "*Supply Chain Management Bid Adjudication Committee: 28 February 2022",* tender number: 329S/2020/21, for the procurement of general cleaning, garden maintenance at various facilities including the supply of containers for the Cape Town Metropolitan Municipality;

5.4.12 Award letter to Gadinelwe Project Management CC, Mega Ndira Resources CC for, "*Tender Number: 325S/2020/21-General Cleaning, Garden Maintenance at Various Facilities Including Supply of Containers for the Cape Town Metropolitan Municipality"*;

5.4.13 Copy of *Report: "Occupancy Surveys",* dated 27 June 2020;

5.4.14 Copy of, "*Langa House Visits Form"*;

5.4.15 *Memorandum-"PPSA S7(9) Notice Follow Up Enquiry- N2 Gateway/Joe Slovo",* dated 05 June 2025;

5.4.16 *Confirmation of Assumption of Duties: New Appointments/Change of Position/Promotion,* dated 01 November 2024, confirming the appointment Mr Kuhle Batmani in the post of Admin Clerk;

5.4.17 *Confirmation of Assumption of Duties: New Appointments/Change of Position/Promotion,* dated 01 November 2024 confirming the appointment Ms Beauty Nokuzola Mayembela in the post of Admin Clerk;

5.4.18 *Confirmation of Assumption of Duties: New Appointments/Change of Position/Promotion,* dated 02 May 2025 confirming the appointment Mr Mzucwensile Siwahla in the post of Enrolled Assistant Nurse;

5.4.19 *Confirmation of Assumption of Duties: New Appointments/Change of Position/Promotion*, dated 02 May 2025 confirming the appointment Ms Akona Filane in the post of Enrolled Assistant Nurse;

5.4.20 *Confirmation of Assumption of Duties: New Appointments/Change of Position/Promotion*, dated 02 January 2025 confirming the appointment Ms/Mr Alungile Sondlo in the post of Professional Nurse at Mathew Goniwe clinic;

5.4.21 *Mental Health Screening at CCT facilities- Comprehensive Personal Primary HealthCare Quarter 1 2025*. The presentation covered: Importance of mental health in primary health care (PHC); Mental health screening: pilot, tool and process; Additional mental healthcare training options and Additional support resources, Clients and Staff;

5.4.22 *HS 05/25 Professional Nurse Interview Outcome (Area 2).* The document contains a list of names of candidates;

5.4.23 Copy of a document depicting a building plan/works plan to be done as part of the planned renovations for Mathew Goniwe clinic;

5.4.24 *Use of capital funds for upgrade and pipeline-with MTREF Funds*. The document reflects a budget provision of eight million five hundred and seventy three thousand and seventy nine Rand (R8 573 079) for Mathew Goniwe for the 2026 financial year and budget provision for Town Two clinic for the 2027 financial year being two million one hundred thousand Rand (R2 100 000);

5.4.25 *Tax Invoice No. 2204867*: FS Systems Proprietary Limited- 135S/2019/20, Eastridge Clinic Fire Detection & Gas Suppression Systems, dated 28 February 2025;

5.4.26 *Acceptance Handover Certificate* - FS Systems Proprietary Limited for Eastridge clinic", dated 28 February 2025. The document reflect work done being "*fire detection upgrade(additions) + gas suppression*";

5.4.27 Copy of: "*Project Sign Off Sheet",* for Eastridge clinic, dated 28 February 2025;

5.4.28 *Tax Invoice No.2204854:* FS Systems Proprietary Limited- 135S/2019/20, Rocklands Clinic -Fire Detection & Gas Suppression Systems, dated 27 February 2025;

5.4.29 *Acceptance Handover Certificate* - FS Systems Proprietary Limited for Rocklands clinic, dated 28 February 2025. The document reflect work done being "*fire detection upgrade(additions) + gas suppression*";

5.4.30 Copy of: "*Project Sign Off Sheet",* for Eastridge clinic, dated 28 February 2025;

5.4.31 *Tax Invoice No. 2204854*. FS Systems Proprietary Limited- 135S/2019/20, Westridge Clinic -Fire Detection & Gas Suppression Systems, dated 28 February 2025;

5.4.32 *Acceptance Handover Certificate*, FS Systems Proprietary Limited for Westridge clinic, dated 28 February 2025. The document reflect work done being "*fire detection upgrade(additions) + gas suppression*";

5.4.33 *Project Sign Off Sheet*, for Westridge clinic, dated 28 February 2025;

5.4.34 *Invoice-Matase Industrial Solution,* dated 28 February 2025, for the repairs of the Mathew Goniwe generator;

5.4.35 *Summary of Observations and Findings at Facilities During Site Visit,* conducted on 11 November 2024;

5.4.36 Copy of *the Disciplinary Inquiry between Cape Town Metropolitan Municipality and Siphokazi September*", dated 08 January 2024, reflecting a sanction of dismissal of the employee;

5.4.37 *PPSA Complaint: S7(9) Notice Langa Flats and Khayelitsha Township 23 May 2025 Follow Up",* dated 19 June 2025;

5.4.38 *PPSA complaint: Langa Flats and Khayelitsha township – section 7(9) notice – requests at 3 July 25 inspection"*, dated 11 August 2025;

5.4.39 Copy of *"Energy – Enterprise Asset Management: Office of the Area Head: Distribution Area North",* dated 17 November 2025;

5.4.40 Copy of *"Repairs and Maintenance activities conducted at SST informal settlement, Khayelitsha",* dated 17 November 2025;

5.4.41 Email with subject matter – "SST/Marikana – Electrification", dated 30 October 2025, and

5.4.42 Sewer Master Plan for Region 4 North, dated September 2023;

5.4.43 Copy of Purchase Order, dated 27 May 2026 in respect of Fire Equipment;

5.4.44 Copy of Fire Safety Plan for Mathew Goniwe CDC, signed and dated 21 May 2026; and

5.4.45 Copy of Fire Design for Town Two Clinic, signed and dated 27 March 2025.

5.5. Correspondence exchanged with SAPS

5.5.1 Letter titled: "*Request for a Meeting: Systemic Investigation Into Alleged Failure by Functionaries of the Cape Town Metropolitan Municipality to Provide Basic Municipal Services in Langa Flats and Khayelitsha Township"* from the Public Protector to Lt Gen Patekile, dated 23 October 2025;

5.5.2 Letter titled: *"Systemic Investigation Into Alleged Failure by Functionaries of the Cape Town Metropolitan Municipality to Provide Basic Municipal Services in Langa Flats and Khayelitsha Township"*, issued in terms of *s7(4)(b)* requesting for information, dated 04 November 2025 from the Public Protector to Lieutenant General Patekile.

5.6. Correspondence exchanged with ESKOM

5.6.1. Letter titled: "*Request for a Meeting: Systemic Investigation Into Alleged Failure by Functionaries of the Cape Town Metropolitan Municipality to Provide Basic Municipal Services in Langa Flats and Khayelitsha Township"* from the Public Protector to Mr Mbulelo Yedwa, dated 23 October 2025;

5.6.2. Letter titled: *"Systemic Investigation Into Alleged Failure by Functionaries of the Cape Town Metropolitan Municipality to Provide Basic Municipal Services in Langa Flats and Khayelitsha Township"*, issued in terms of *s7(4)(b)* requesting for information from the Public Protector to Mr Mbulelo Yedwa, dated 03 November 2025; and

5.6.3. Letter titled: "*Response to Investigation by Public Protector's office regarding service delivery in Marikana, Khayelitsha"* responding to the Notice in terms of Rule 7(4)(b), dated 17 November 2025.

5.7. Meetings held

5.7.1. Meeting held between the Public Protector and Mr Hill-Lewis, dated 19 April 2023;

5.7.2. Meeting held between the Investigation Team, Community representatives of Langa Flats and the CoCT officials on 30 May 2023, at Langa Flats Zone 20;

5.7.3. Meeting held between the Investigation Team and Langa Community Advice Services on 05 October 2023;

5.7.4. Meeting held between the Investigation Team, Community representatives of Langa Flats and CoCT officials on 12 January 2024, at Town Two;

5.7.5. Meeting held between the Investigation Team, Community representatives of Langa Flats and the CoCT officials on 15 January 2024, at Town Two;

5.7.6. Meeting held between the Investigation Team, Community representatives of Langa Flats and the CoCT officials on 15 January 2024, at Langa Flats Zone 20;

5.7.7. Meeting held between the Investigation Team and the CoCT officials on 28 October 2025, at the CoCT offices;

5.7.8. Meeting held between the Investigation Team and SAPS officials on 29 October 2025;

5.7.9. Meeting held between the Investigation Team and ESKOM officials on 29 October 2025;

5.7.10. Meeting held between the Investigation Team and the CoCT officials on 04 November 2025; and

5.7.11. Meeting held between the Public Protector and Mr Hill-Lewis, dated 11 November 2025.

5.8. Legislation and Policies

5.8.1. Constitution of the Republic of South Africa, 1996;

5.8.2. Public Protector Act, 1994;

5.8.3. Rules Relating to Investigations by the Public Protector and Matters Incidental Thereto, 2018 (as amended);

5.8.4. Municipal Finance Management Act, 2003;

5.8.5. Local Government: Municipal Structures Act, 1998;

5.8.6. White Paper on Local Government, 1998;

5.8.7. Local Government: Municipal Systems Act, 2000;

5.8.8. National Energy Act, 2008;

5.8.9. National Environmental Management: Waste Act, 2008;

5.8.10. International Covenant on Economic, Social and Cultural Rights;

5.8.11. United Nations Committee on Economic, Social and Cultural Rights;

5.8.12. Cape Town Metropolitan Municipality Water and Sanitation Services Policy of 2023; and

5.8.13. Cape Town Metropolitan Municipality Allocation Policy: Housing Opportunities, 2022 (Policy Number 11969).

5.9. Case Law

5.9.1. *Economic Freedom Fighters v Speaker of the National Assembly and Others: Democratic Alliance v Speaker of the National Assembly and Another (CCT76/17) [2017] ZACC 47;2018 (3) BCLR 259 (CC); 2018 (2) SA 571 (CC) (29 December 2017);*

5.9.2. *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39*

(Pty) Ltd and Another (CC) [2011] ZACC 33; 2012 (2) BCLR 150 (CC); 2012 (2) SA 104 (CC) (1 December 2011);

5.9.3. *Government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169 (4 October 2000);*

5.9.4. *Mazibuko v City of Johannesburg 2010 (4) SA 1 (CC);*

5.9.5. *Minister of Health v Treatment Action Campaign (No 2) 2002 (5) SA 721 (CC);* and

5.9.6. *Premier, Gauteng and Others v Democratic Alliance and Others; All Tshwane Councillors who are Members of the Economic Freedom Fighters and Another v Democratic Alliance and Others; African National Congress v Democratic Alliance and Others [2021] ZACC 34.*

5.10. Notice issued in terms of section 7(9)(a) of the Public Protector Act, 1994

5.10.1. Section 7(9)(a) of the Public Protector Act, provides that, *"if it appears to the Public Protector during the course of an investigation that any person is being implicated in a matter being investigated and such implication may be to the detriment of that person or that an adverse finding pertaining to that person may result, the Public Protector shall afford such person an opportunity to respond therewith in any manner that may be expedient under the circumstances".*

5.10.2. A section 7(9)(a) Notice, dated 18 March 2025, was issued to the following persons to afford them an opportunity to make representations regarding the likely findings and likely remedial action, namely:

5.10.3. Mr Anton Bredell, the MEC for Western Cape Local Government;

5.10.4. Mr Geordin Hill-Lewis, the Executive Mayor for the Cape Town Metropolitan Municipality; and

5.10.5. Mr Lungelo Mbandazayo, the Municipal Manager for the Cape Town Metropolitan Municipality.

5.10.6. Responses were received from Mr Bredell on 25 March 2025 and from Ms Sayed, Director: Legal Department of CoCT, on behalf of Executive Mayor Mr Hill-Lewis and the Municipal Manager Mr Mbandazayo on 11 April 2025.

6. THE DETERMINATION OF THE ISSUE IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSION MADE WITH REGARD TO THE APPLICABLE LAW AND PRESCRIPTS

6.1 Whether the provision of basic municipal services by the functionaries of the CoCT to the residents of Langa Flats and Khayelitsha townships are rendered in a progressive and effective manner as contemplated in the Constitution and the law, if not, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration and improper prejudice in terms of section 6(4)(a)(i) and (v) of the Public Protector Act

Common cause

6.1.1 The CoCT was established on 05 December 2000, through the integration of various municipalities and councils. It is classified as a Category A Municipality by the Municipal Demarcation Board in terms of section 4 of the Local Government, Municipal Structures Act.

6.1.2 The fundamental values and principles that govern service delivery in local government are outlined in section 152 of the Constitution. This section outlines the objectives for which local government is accountable, including the establishment of a democratic and accountable governance structure for local communities, the sustainable provision of services to these communities, the promotion of a safe and healthy environment and the encouragement of community and community organisation participation in local government affairs.

6.1.3 The Constitution enjoins state entities, including municipalities to take measures to progressively realise socio-economic rights within the limits of available resources. Furthermore, state organs are encouraged to implement legislative and other measures that would facilitate the enhancement of the realisation of these rights.

Issue in dispute

6.1.4 The issues for the Public Protector's determination are whether the functionaries of the CoCT have taken reasonable and progressive measures to ensure the provision of basic municipal services to the residents of Langa Flats and Khayelitsha townships, in compliance with applicable legal prescripts, governing legislation, and the Constitution of the Republic of South Africa, 1996, particularly, the following service delivery areas:

6.1.4.1 The provision and maintenance of sewerage infrastructure and refuse removal services;

6.1.4.2 The provision of housing and the administration and maintenance of existing social housing units under lease agreements;

6.1.4.3 The upkeep and maintenance of road infrastructure;

6.1.4.4 Communication mechanisms and responsiveness by the CoCT to residents to address their complaints and grievances;

6.1.4.5 The provision of reliable and adequate electricity and related municipal services; and

6.1.4.6 Accessibility of health care facilities to meet the needs of the residents.

Public Protector's Annual Roadshow

6.1.5 On 07 March 2022, the Public Protector conducted the Annual Roadshow, engaging with residents of Langa Flats and Khayelitsha townships. The inspections revealed widespread dissatisfaction with the City of Cape Town's (CoCT) delivery of essential services.

6.1.6 Key issues included inadequate maintenance of sewerage systems, roads, and communal areas, lack of formal lease agreements and delays in transferring ownership of flats, poor communication and feedback regarding complaints and insufficient solid waste collection.

Response by Mr Hill-Lewis to the issues raised by the residents of Langa Flats

6.1.7 Mr Hill-Lewis responded as follows to the concerns raised by residents:

6.1.7.1 The CoCT received a total budget of forty million Rand (R40 000 000) for the 2022/23 financial year, designated for infrastructure maintenance, which encompasses the upgrading of the sewerage system at Langa Flats. However, he was unable to disclose the specific allocation of funds to determine the

amount designated for the upgrading and maintenance of Langa Flats. He assured the residents that he would provide additional details regarding the budget allocated to Langa Flats after consulting with the official responsible;

6.1.7.2 The Langa Flats have been leased to the residents in accordance with the agreement established with the Western Cape Department of Human Settlements (now Department of Infrastructure), following their transfer to the CoCT. Nevertheless, he will pursue the matter of Lease Agreements with the appropriate official from CoCT;

6.1.7.3 The responsibility for cleaning the flats lies with the CoCT, however, the CoCT has been facing operational difficulties in delivering these cleaning services effectively; and

6.1.7.4 The sewage overflow occurring on the street at Langa Flats in blocks J1 and J3 was going to be addressed as a priority. Additionally, he expressed concerns regarding the safety of the CoCT officials or designated contractors, who are occasionally subjected to physical attacks and/or obstructed/prevented from performing maintenance tasks by residents.

Further response from Mr Hill-Lewis, dated 09 June 2022

6.1.8 On 22 May 2022, the Investigation Team sent a Notice in terms of *Rule 23(1) of the Public Protector Rules* to Mr Hill-Lewis soliciting his response to the issues highlighted by residents of Langa Flats and Khayelitsha township and observations made during the *inspection in loco,* including:

6.1.8.1 The outcome of his deliberations with the appropriate officials in charge of overseeing Lease Agreements for residents of Langa Flats;

6.1.8.2 A comprehensive overview of the rental revenue collected from residents of Langa Flats over the past two (02) financial years and the allocation of those funds;

6.1.8.3 The extent to which his office has prioritised the cleaning of communal areas, the repair of the sewerage infrastructure in Langa Flats, as well as addressing the potholes in Khayelitsha township;

6.1.8.4 The results of his discussions with the appropriate officials regarding the transfer of ownership of the flats to the residents of Langa Flats;

6.1.8.5 Initiatives that the CoCT has executed or contemplated to execute in educating residents on the protection of public property and to deter vandalism, as well as threats or acts of violence against the CoCT officials or contractors assigned to rectify infrastructure deficiencies; and

6.1.8.6 A copy of the preliminary Project Plan that the CoCT aims to implement in order to deal with the issues highlighted by the residents of Langa Flats and Khayelitsha townships.

6.1.9 In a response to the Public Protector, dated 09 June 2022, Mr Hill-Lewis stated, *inter alia*, that:

6.1.9.1 The CoCT was preparing to provide essential services through alternative delivery methods and dedicated itself to creating suitable delivery models for less formal settings while effectively monitoring these services;

6.1.9.2 The CoCT was collaborating with National and Provincial governments to ensure access to water, sanitation, energy and waste management services for low-income consumers by implementing cross-subsidisation and allocating

funds for free basic services, thus enhancing community resilience;

6.1.9.3 Residents can utilise the CoCT's C3 System to report complaints related to service delivery and receive updates on the status of their submissions;

6.1.9.4 The CoCT was in the process of creating a Mobile App to facilitate the logging and tracking of service delivery requests for residents;

6.1.9.5 The CoCT is committed to sustaining its water and sanitation services to accommodate the growing number of households within its jurisdiction;

6.1.9.6 The CoCT is focused on enhancing the provision of housing opportunities in strategically located areas, necessitating targeted structural support and a more defined strategic and operational connection among essential human settlement functions, including formal housing delivery, upgrades to informal settlements, rental housing and backyard services;

6.1.9.7 The Road Infrastructure Management Unit within the CoCT oversees the management and upkeep of all road infrastructure assets, encompassing activities such as road rehabilitation, resealing, resurfacing, reconstruction and additional related tasks;

6.1.9.8 Concerning the status of the Lease Agreements for the residents of Langa Flats, Thubelisha Homes and Servcon acted as implementing agents responsible for the identification and allocation of beneficiaries to the housing units in September 2006. In June 2007, residents initiated a rental strike against the CoCT, citing Thubelisha Homes' failure to repair defects. The Langa Flats project faced numerous challenges and was ultimately transferred to the CoCT by the Department of Infrastructure, leaving several issues unresolved;

6.1.9.9 There are approximately seven hundred and five (705) units in total and the officials responsible for overseeing the handover process have departed from the CoCT. Consequently, alternative sources of information are being sought to address the ongoing challenges;

6.1.9.10 In 2015, the CoCT's Public Housing Unit carried out an occupancy survey and established Lease Agreements with one hundred and forty three (143) occupants. The remaining five hundred and sixty two (562) occupants declined to cooperate, claiming, among other reasons, that they had been assured the housing units were intended for rent-to-buy arrangements, as a result, they were unwilling to enter into rental agreements and preferred to purchase the units; and

6.1.9.11 The CoCT will respond to several complaints raised by residents of Langa Flats through tender number 135/2021/22, which includes among others include:

(a) Verification of the initial allocation list to ascertain the original beneficiaries;

(b) Perform an occupancy survey to validate the specific unit occupied by the resident against the original allocation list;

(c) Undertake a feasibility study regarding the current design and typology of the housing units to determine compliance with construction legislation; and

(d) Evaluate the sale and registration processes in accordance with the Sectional Title Scheme Programme, as regulated by the Sectional Title Act, 1986 and the Sectional Title Scheme Management Act, 2011.

Maintenance of Sewerage Infrastructure and Sanitation in Langa Flats

6.1.12 In his correspondence dated 09 June 2022, concerning the maintenance of sewerage infrastructure and the general cleanliness of Langa Flats, Mr. Hill-Lewis reported that:

6.1.12.1 The plumbing team responsible for the Langa area conducted an inspection of the flats and identified blockages and ruptured pipes, which have since been repaired. The C3 System notification process is operational to address any additional individual complaints received by the CoCT, daily;

6.1.12.2 The maintenance of cleanliness in the common areas will be dealt with through a tender in July 2022. Additionally, a follow-up will be made regarding a quotation for a service provider to repair and maintain vandalised fire hose reels;

6.1.12.3 The structural cracks observed during the *inspection in loco* on 07 March 2022, in several housing units, were going to be examined by a professional team in the 2023 financial year; and

6.1.12.4 The Public Housing Department of the CoCT collaborated with the Department of Infrastructure and the Communication and Corporate Unit to implement a range of awareness and educational initiatives. These programs, which were promoted through various media channels, addressed several critical issues, including campaigns on rental payments, the consequences of vandalism on the CoCTs infrastructure, the problem of sewerage blockages caused by foreign objects, illegal dumping and efforts to promote water conservation.

Complaints from residents of Khayelitsha Township

6.1.13 Mr Hill-Lewis, in addressing the complaints lodged by residents of Khayelitsha Township, indicated*, inter alia*, that:

6.1.13.1 The CoCT seeks to ensure that its road network is efficiently managed by applying best practice principles and carrying out required stormwater maintenance interventions timeously and within budget;

6.1.13.2 The CoCT has various ongoing resurfacing projects for the Khayelitsha township from 2019 to 2024; and

6.1.13.3 The provision of essential services, including waste collection and the continuous maintenance of these services, experienced an increase of four hundred million Rand (R400 000 000) in the financial year 2021/2022, is expected to undergo further expansion in the future.

6.1.14 Mr Hill-Lewis submitted the following documents to substantiate his response:

Khayelitsha Area-Road Resurfacing & Repairs May 2022

6.1.14.1 A document titled**:** "Khayelitsha Area – Road Resurfacing & Repairs May 2022", was submitted. The said document reflects a map identifying the areas and roads resurfaced during the 2019/2020 to 2020/2021 and the 2021/2022 to 2023/2024 financial years. It further records an assessment of the condition of Japhta K, Masemola Road as observed during the on-site inspection of 07 March 2022, as well as its condition subsequent to the completion of the resurfacing works.

Urban Mobility: Roads Infrastructure Management Pothole Project

6.1.14.2 A document titled: "Urban Mobility: Roads Infrastructure Management Pothole

Project (Contracted Works)", outlines the specific areas and Wards where pothole repairs were undertaken during the 2021/2022 financial year, together with the related expenditure.

Challenges facing the CoCT

6.1.14.3 A document titled: "Challenges", sets out the obstacles experienced by the CoCT in attending to service delivery requests from residents. These include disruptions to contractors' work arising from community interference, vandalism of contractors' equipment, instances of extortion by criminal elements, illegal connections, illegal dumping and other related challenges.

Inspection in loco conducted by the Investigation Team on 16 August 2022

6.1.15 On 16 August 2022, the Investigation Team conducted a comprehensive *inspection in loco* at Langa Flats and Khayelitsha Township. The purpose of the inspection was to gather additional information, further assess the service delivery challenges experienced by residents and engage residents through interviews on the challenges encountered, as well as the interventions they proposed for implementation by the CoCT to alleviate such challenges.

Langa Flats inspection in loco

6.1.16 The Investigation Team observed that the sewage spillage previously identified at Blocks J1 and J3 had been addressed. However, the underlying sewerage infrastructure remained unrepaired, with no evidence of excavation works having been undertaken to repair the underground piping.

6.1.17 It was observed that the CoCT had not maintained the cleanliness of the communal areas within the flats. As a result, residents continued to contribute one hundred Rand (R100) collectively towards the hiring of a cleaner to service

these premises.

6.1.18 The fire hose reels and fire extinguishers remained in a state of disrepair and had not been serviced.

6.1.19 It was further noted that certain residents unlawfully constructed supplementary structures attached to their housing units. This raised concerns among other residents regarding the potential increase in population density, which could exacerbate the strain on the already overloaded sewerage infrastructure. Residents expressed their frustration towards the CoCT officials for failing to adequately enforce building regulations.

Inspection in loco in Khayelitsha Township PJS No 94, Sulani Drive

6.1.20 During the *inspection in loco*, the Investigation Team interviewed a resident of PJS No. 94, Sulani Drive, Khayelitsha, regarding the sinkhole recorded during the Public Protector's *inspection in loco* on 07 March 2022. The resident testified that the sinkhole had been repaired shortly after the Public Protector's visit, although she could not confirm the precise date on which the repair was effected, nor the duration taken by the CoCT to complete the remedial work. The Investigation Team observed and confirmed that the said sinkhole had been repaired.

6.1.21 The Investigation Team observed a blocked sewerage pipe that was causing sewage to overflow onto the street. It was established that this blockage had not been present during the Public Protector's *inspection in loco* conducted on 07 March 2022. A resident of PJS No. 94, Sulani Drive, Khayelitsha, informed the Investigation Team that the blockage was reported to the CoCT on 16 August 2022. The resident, however, was unable to provide evidence as to the exact date on which the blockage first manifested or the identity of the

individual who reported the matter to the CoCT.

Inspection in loco in Khayelitsha Township: Site B and K Section, Ngcubeni Street

6.1.22 During the *inspection in loco* conducted at Site B and K Section, Ngcubeni Street, the Investigation Team observed a blocked sewer pipe, which resulted in sewage overflowing onto the street. A resident of Ngcubeni Street informed the Investigation Team that the sewer pipe had been blocked since 13 August 2022, but she was unable to confirm whether the matter had been reported to the CoCT. In a subsequent telephonic engagement with the Investigation Team on 06 September 2022, the same resident confirmed that the CoCT had effected repairs to the sewer pipe on 17 August 2022.

Inspection in loco in Khayelitsha township Walter Sisulu Road, Section 63, Makhaza

6.1.23 The Investigation Team, during its *inspection in loco* at Section 63, Walter Sisulu Road, Makhaza, observed the emergence of a substantial and hazardous pothole, which had not been present during the Public Protector's *inspection in loco* on 07 March 2022. The evidence confirms that the pothole previously identified by the Public Protector had been repaired and that construction activities were underway on the road. However, the development of a new deep pothole underscores the persistence of deteriorating road conditions, posing continued risks to road users notwithstanding ongoing repair works.

6.1.24 The Investigation Team interviewed an employee of the contracting company responsible for the replacement of the old sewerage pipes. He testified that the construction process was anticipated to take approximately three (03) months

to complete. He further indicated that the principal cause of recurring blockages in the sewerage and stormwater drainage systems is the continued use of small and narrow underground asbestos pipes, which are structurally inadequate to meet the demands of the growing population. This systemic inadequacy contributes directly to the persistent service delivery failures affecting residents.

6.1.25 He further stated that an additional factor contributing to blockages in the sewerage and stormwater drainage systems is the improper disposal of solid objects by certain residents, which obstructs the flow within the drainage pipes. He indicated that the CoCT was in the process of replacing the existing asbestos piping with larger and wider PVC plastic pipes, which are more durable and have a longer lifespan. The introduction of these upgraded pipes is expected to substantially reduce the incidence of blockages due to their increased capacity and resilient material composition.

6.1.26 The employee, however, declined to provide a written statement to the Investigation Team and requested to remain anonymous. However, the evidence confirms that while the introduction of larger, more durable PVC piping is a critical intervention expected to reduce systemic blockages, the improper disposal of solid objects by residents continues to exacerbate sewage and stormwater drainage failures.

Letter to the Municipal Manager from the Investigation Team

6.1.27 On 21 December 2022, the Investigation Team addressed a Notice in terms of *Rule 23(1) of the Public Protector Rules*, to the Municipal Manager, Mr Lungelo Mbandazayo (Mr Mbandazayo), requesting his response to the allegations and also sought an Action Plan detailing the measures to be undertaken by the CoCT to address the concerns raised by residents of Langa Flats and

Khayelitsha Township, as previously outlined in the correspondence of Mr Hill-Lewis, dated 09 June 2022, including:

6.1.27.1 The CoCT's comprehensive strategy, encompassing short, medium and long-term initiatives aimed at resolving and ultimately eradicating the issue of blocked sewerage pipes in Langa Flats and Khayelitsha townships;

6.1.27.2 A detailed action program illustrating the CoCT's response to complaints from residents regarding service delivery challenges, including sewerage pipe blockages, potholes and other essential service requirements;

6.1.27.3 The allocated budget and expenditure from the Municipal Infrastructure Grant, specifically for the repair and maintenance (RAM) of infrastructure, as well as the provision of essential services to Langa Flats and Khayelitsha townships;

6.1.27.4 The utilisation of the forty million Rand (R40 000 000) designated for the 2021/2022 financial year for the maintenance and delivery of basic services in Langa Flats and Khayelitsha townships;

6.1.27.5 A strategic Action Plan outlining the measures employed by the CoCT to conduct educational campaigns aimed at educating residents to conscientise them about vandalism of public infrastructure, and the CoCT's initiatives to protect contractors responsible for maintaining the infrastructure;

6.1.27.6 A comprehensive Action Plan for the collection of rental income owed to the CoCT by the residents of Langa Flats; and

6.1.27.7 An audit of the residents of Langa Flats, distinguishing between those with Lease Agreements and those without, along with the CoCT's strategy to ensure that all tenants possess Lease Agreements.

Response from Ms Riaana Sayed, Director: Legal Services

6.1.28 On 07 February 2023, the Investigation Team received a response letter from Ms. Riaana Sayed (Ms Sayed), Director: Legal Services, acting on behalf of the Municipal Manager.

6.1.29 In her correspondence, Ms. Sayed advised, *inter alia*, as follows:

Urban Waste Management

6.1.29.1 The Waste Services Collections Section (WSCS) provides kerbside removal services in 240L wheelie bins to both Langa Flats and Khayelitsha townships once a week depending on the number of collection areas. The Langa Flats residents are also able to drop off additional waste at the CoCT's Athlone drop-off facility and Khayelitsha residents may do so at the Swartklip drop-off facility;

6.1.29.2 Green litter bins are also placed in the vicinity for pedestrian waste and bagged waste from streets, which is removed by a service provider. Larger illegally dumped items that cannot be bagged are removed by Specialised Equipment Services or the responsible area depot. However, notwithstanding these efforts, a big challenge is illegal dumping;

6.1.29.3 Awareness campaigns are facilitated by the Public Awareness section within the Compliance and Awareness branch. This section provides waste management awareness and education throughout the CoCT, focusing on raising public awareness about solid waste management as a stand-alone intervention or in collaboration with other stakeholders such as:

(a) Water and Waste in their *"Bin It Don't Block It"* campaign, which focuses on illegal dumping to avoid infrastructural damage;

(b) Social Development with their, *"Women in Rental Stock",* programme, which at the time or previously, provided waste capacity building sessions to women on the programme;

(c) WSCS also provides support to the sub-council for raising awareness about waste management in the Langa Flats township and areas around the block of flats;

(d) WSCS is also raising awareness in the Khayelitsha township through its Expanded Public Works Programme (EPWP) covering various areas;

(e) WSCS worked within Langa Flats and Khayelitsha townships communities to conduct public awareness interventions such as community exhibitions, awareness at schools and engaging people at key places such as taxi interchanges, clinics and many more throughout the area;

(f) Interventions for waste management awareness are initiated by the WSCS as the need arises or from requests by the community or when support is required by the Urban Waste Management directorate's operational services or through sub-councils and Councillors;

(g) Implementation of the initiatives are conducted by a team of public awareness officers. This team was recently supplemented with additional support through the appointment of EPWP staff. There are four (04) EPWP members for Khayelitsha and two (02) for the Langa townships; and

(h) The key focus of the WSCS is on illegal dumping, waste avoidance, waste minimisation awareness with emphasis on public open spaces and conducting awareness drives in schools and communities across the

CoCT.

Lack of provision of electricity

6.1.30 Khayelitsha township is an Eskom supply area and the CoCT attends to the lighting. The lighting plan for the area is mostly based on high mast light infills and conventional lighting on the main roadways.

6.1.31 Regarding maintenance on equipment in Langa Flats, while all electrical infrastructure has a maintenance history, the CoCT does not treat the various areas differently and applies the same methodology across the metro, Langa Flats included. Langa Flats fall under the great Vanguard area.

Urban Mobility/ Roads and Infrastructure Management

6.1.32 The planned spending for the resurfacing projects in Khayelitsha township during 2022/2023, has been increased substantially and almost trebled since the submission by Mr Hill-Lewis. This is an indication of the CoCT's commitment to improving conditions in, amongst others, Khayelitsha township.

6.1.33 The planned spending for 2023/2024 reflects a reduction in the previously indicated planned spending, where the planning of roads is sometimes reprioritised due to existing conditions or budgetary constraints or additional budget sourced. Some roads may end up requiring a different type of intervention than what was initially anticipated, which can be more costly than what was budgeted for. If the planned budget is inadequate, the project is moved to another financial year.

6.1.34 Vandalism of infrastructure is a criminal offence and a scourge around the world, regrettably vandalism of infrastructure is something the CoCT has little

or no control over. As much as some of the infrastructure is the CoCT's responsibility, the CoCT does not have sufficient budget to constantly police, replace or repair vandalised infrastructure.

6.1.35 Safeguarding public infrastructure is also a public responsibility and the civic duty of every member of the community to report vandalism and those responsible for vandalism to the South African Police Service for criminal prosecution. Residents are encouraged to give anonymous tipoffs if they are aware of illegal activities taking place.

Housing Development

6.1.36 The Harare Infill Housing development which was under construction has yielded nine hundred and one (901) housing opportunities. As of December 2022, four hundred and nine (409) out of four hundred and eighty three (483) have been completed and handed over under phase 1 and two hundred and eighty eight (288) out of four hundred and eighteen (418) units have been handed over under phase 2.

6.1.37 The tender for internal services in the Mahama Housing development has been completed. The project would have yielded two hundred and sixty one (261) housing opportunities and construction was anticipated to commence in March 2023. Due to site invasion, no construction has been undertaken, and the funds were moved to other projects.

6.1.38 During the height of the COVID-19 pandemic, several housing sites were completely invaded, resulting in the loss of housing opportunities for qualifying beneficiaries who had been patiently waiting for allocation.

(a) Mahama Housing Development

6.1.39 The project would have yielded one thousand seven hundred and thirty one (1731) housing opportunities from eight (08) sites, but only two (02) sites comprising two hundred and sixty one (261) units remain due to illegal invasion. The total projected cost for the one thousand seven hundred and thirty one (1731) sites would have been two hundred and ninety four million two hundred and seventy thousand Rand (R294 270 000) including top structures. Due to invasions, two hundred and forty nine million two hundred and twenty thousand Rand (R249 220 000) have been removed from the budget.

(b) Ilitha Park Housing Development

6.1.40 The project would have yielded one hundred nighty (190) units, but the land has been completely invaded. The estimated budget for internal services was nine million five hundred thousand Rand (R9 500 000). The budget has been removed from this project because of invasions.

(c) False Bay Housing Development

6.1.41 The project would have yielded three hundred and twenty three (323) housing opportunities, but the land has been completely invaded. The estimated costs of the houses would have been thirty nine million two hundred and forty thousand Rand (R39 240 000). The budget has been removed from this project as a result of invasions.

(d) *Khayelitsha CBD Housing Development*

6.1.42 The project would have yielded three hundred and sixty eight (368) housing opportunities, but the land has been completely invaded. The estimated costs of the houses would have been forty four million one hundred and sixty

thousand Rand (R44 160 000), however, the budget has been removed from this project as a result of invasions.

(e) *Public Housing*

6.1.43 In her response, Ms Sayed referred to a document titled: "Public Housing: Action Plan Langa Maintenance Issues", which records that a tender process to appoint a service provider to conduct a verification survey was finalised in January 2023. The purpose of this survey is to confirm the validity of the occupancy status of one hundred and forty three (143) tenants and to identify the residents of five hundred and sixty two (562) units, with a view to establishing Lease Agreements for qualifying occupants. In cases where tenants do not qualify, the applicable procedures of the CoCT are to be enforced.

6.1.44 Ms Sayed further indicated that the CoCT undertakes public education initiatives by engaging various media platforms, including local radio stations and newspapers such as Radio Zibonele Afternoon Drive**,** Heart FM**,** COCT Vision**,** Vukani**,** and Weekend Argus, as well as through pamphlets and digital billboards.

Public Protector's Annual Roadshow

6.1.45 On 19 April 2023, during the Annual Roadshow, the Public Protector convened a meeting with various stakeholders, including Mr Hill-Lewis and senior officials of the CoCT.

6.1.46 The meeting which was attended by members of the Mayoral Committee responsible for Sanitation, Finance, Economic Growth, and Human Settlements, aimed, among other objectives, to obtain an update from Mr Hill-

Lewis regarding the short-term and long-term measures implemented by the CoCT to address the service delivery challenges raised by residents during the Public Protector's Annual Roadshow held on 07 March 2022.

6.1.47 Mr Hill-Lewis furnished the Public Protector with an update on the progress achieved in respect of both the short-term and long-term measures implemented by the CoCT to address the range of service delivery challenges affecting residents of Langa Flats and Khayelitsha township, as set out below:

6.1.47.1 Repairs were undertaken on potholes and blocked sewerage pipes in both Langa Flats and Khayelitsha township;

6.1.47.2 The sewage overflow in Langa Flats was addressed through cleaning, however, no structural repairs had yet been effected on the sewerage pipes. The CoCT committed to continuing with regular cleaning of sewage spills pending the completion of the necessary pipe repairs; and

6.1.47.3 The CoCT is utilising the *3C System* to log/record and respond to complaints from residents.

6.1.48 The Public Protector urged the officials of the CoCT to collaborate with the Investigation Team in their initiatives to connect with the communities in order to identify the most effective strategies for addressing the identified service delivery challenges. Following the meeting, the Public Protector carried out a subsequent *inspection in loco* in the designated areas and noted that interventions had been implemented in the affected regions, as indicated by Mr Hill-Lewis.

Engagement by the Investigation Team with Langa Community in Zone 20

6.1.49 On 30 May 2023, the Investigation Team convened a meeting with the community of Langa Flats, Zone 20, to deliberate on, *inter alia*, the intervention and cooperation required by the community to enable the CoCT to repair the collapsed sewerage infrastructure. The meeting was attended by the Mayoral Committee (Mayco) Member for Water and Sanitation, Councillor Zahid Badroodien (Mr Badroodien), officials of the CoCT and community leaders.

6.1.50 It was reported at the meeting that the sewerage infrastructure had been in a state of disrepair for the past fourteen (14) years, necessitating urgent intervention. The failure of the infrastructure was said to be affecting not only Langa Flats, but also a wider surrounding area.

6.1.51 The functionaries of the CoCT emphasised that budget allocation for the rehabilitation, augmentation and maintenance (RAM) of the sewerage infrastructure needed to be committed urgently before the end of June 2023, failing which, the funds would be redirected to other projects. It was further indicated that meetings had previously been held with residents in November 2022 concerning the same matter, during which, residents were requested to consent to relocation in order to enable the CoCT to effect the necessary repairs to the sewerage infrastructure.

6.1.52 Land was identified for the relocation of affected residents, however, engagement with the Ward Councillor responsible for the identified land, as well as with the community in that area, was still outstanding. It was further suggested that, rather than relocating a large number of residents, a smaller number could be relocated to create sufficient space to enable the repair of the sewerage infrastructure.

6.1.53 A community leader raised concerns regarding the CoCT's failure to follow through on its commitments. He cautioned that the functionaries of the CoCT were requesting cooperation from residents without first engaging the communities and Ward Councillors of the areas where land had been identified, in order to ascertain whether they would accept the relocation of residents from Langa Flats, Zone 20.

6.1.54 He further requested that the matter be held in abeyance to allow an opportunity to engage residents in connection with challenges of service delivery and to report back to the CoCT on the proposed way forward. It was further suggested that, instead of relocating residents to other Wards where they might not be welcomed, open spaces within Langa Flats, Zone 20, should be identified to accommodate such residents, as had been done previously.

6.1.55 The meeting adjourned on the understanding that community leaders would revert to the CoCT within a week, following consultations with residents on the available options. Subsequently, on 13 July 2023, Mr Badroodien informed the Investigation Team that the community declined relocation to any of the identified alternative sites and had urged the CoCT to devise means to repair the sewerage infrastructure without necessitating the relocation of their shacks.

Meeting with Langa Community Advice Service

6.1.56 On 05 October 2023, the Investigation Team convened a meeting with the Langa Community Advice Service, a Community-Based Organisation operating in the vicinity of Langa Flats, to address concerns raised by Mr Hill-Lewis regarding vandalism and sewer blockages.

6.1.57 The purpose of the engagement was to request the Langa Community Advice Service to mobilise local residents for a community gathering at which the

Investigation Team could provide an update on the progress of the investigation. It was agreed that a formal letter of engagement would be issued to the Langa Community Advice Service to facilitate coordination with community leaders.

6.1.58 Pursuant thereto, a formal request for a meeting with residents was submitted to the Langa Community Advice Service, proposing 04 December 2023 as the meeting date, however, the proposed meeting did not materialise owing to conflicting positions expressed by community leaders concerning the issues to be discussed.

Meetings held with the communities of Town Two (Silvertown) and Langa Flats, Zone 20

6.1.59 On 15 January 2024, a meeting was convened involving representatives of the CoCT, Mr Badroodien, community leaders from Town Two and Langa Flats, Zone 20, together with their respective Ward Councillors and representatives of the South African National Civic Organisation (SANCO).

6.1.60 The objective of the meeting at Town Two was to address the proposed relocation of residents whose shacks had been erected over a collapsed sewerage line in other sections. A parcel of land situated adjacent to the Eskom Power Station was identified as a potential relocation site. However, taxi operators objected to the utilisation of this land for the temporary accommodation of residents, contending that the site had been earmarked for the development of a taxi rank. They further expressed concern that, once settled, residents would resist any subsequent relocation.

6.1.61 On the same day, a meeting was convened with representatives of the Langa Flats community in Zone 20, at the site where the sewerage infrastructure had

become obstructed and subsequently collapsed. The purpose of the meeting was to persuade residents whose shacks had been erected over the sewerage line to permit the necessary repair works.

6.1.62 The identified occupants, however, declined to relocate, citing that some were tenants and therefore required the consent of the shack owners before any relocation could take place.

Further inspection in loco at Town Two, Silver Town-Marikana Informal Settlement

6.1.63 On 23 January 2025, the Investigation Team conducted an *inspection in loco* at Town Two, Silver Town – Marikana Informal Settlement, to assess progress and perform a situational analysis of the challenges experienced by residents. This area had previously been examined following the collapse of a sewerage line, which occurred as a result of residents erecting shacks directly above the sewerage infrastructure.

6.1.64 During the earlier visit, discussions were held with residents concerning their possible relocation to an alternative site within Town Two, situated adjacent to the Town Two Clinic, in order to enable the CoCT to carry out the necessary repairs to the sewerage system.

6.1.65 Officials of the CoCT undertook to provide residents at the proposed relocation site with access to clean water, ablution facilities and to facilitate access to electricity by engaging Eskom on the matter. It was noted that certain residents had already been provided with Eskom utility boxes at the site from which they were to be relocated.

6.1.66 During the *inspection in loco*, the following material observations were made:

6.1.66.1 Residents who voluntarily relocated to the new site adjacent to the Town Two Clinic reported that they no longer had access to electricity, which they previously enjoyed prior to their relocation from the sewerage line. At present, they rely on a single communal water tap which they installed themselves, as the CoCT failed to provide them with access to water services;

6.1.66.2 Residents further informed the Investigation Team that their relocation to the new site commenced around April 2024, with some having been moved earlier. They also reported that on 21 January 2025, a fire broke out in the informal settlement, destroying seventy six (76) shacks;

6.1.66.3 While no fatalities were reported, the settlement, which is home to approximately two hundred (200) residents, remains highly vulnerable to wildfires, which often devastate informal structures and frequently result in loss of life;

6.1.66.4 The image below reflects the aftermath of the fire incident at the Marikana Informal Settlement, Town Two;

Image 1: SST-Marikana fire aftermath

6.1.66.5 Marikana Informal Settlement is characterised by widespread illegal electricity connections, which pose a grave and life-threatening risk to residents;

6.1.66.6 The pictures below illustrate the extent of these illegal connections;

Image 2: SST-Marikana -Illegal electricity connection

Image 3: SST-Marikana -Illegal electricity connection

6.1.66.7 The high mast light located on the outskirts of the Marikana informal settlement was found to be inoperative. A resident reported that this light remained non-functional for nearly a year. The inadequacy of high mast lighting in the area creates conditions conducive to criminal activity, enabling individuals to engage in disruptive conduct that poses a danger to the community.

Image 4: SST-Marikana High Mast Light

6.1.66.8 The Investigation Team was further informed that sewage overflows occur frequently along Charles Mukwena Street, presenting a serious health risk to children and attracting green flies, frogs and other insects, thereby contaminating the surrounding environment, as illustrate in the picture below

Image 5: Drain Spillage-SST-Marikana

Langa Flats inspection in loco

6.1.67 On 30 January 2025, an *inspection in loco* was conducted at Langa Flats and Langa Zone 20 and it was observed that the sewage overflow appeared to have been managed and contained, in contrast to the severely deteriorated infrastructure observed in 2023. The CoCT demonstrated a proactive approach by engaging tenants, addressing the sewage overflow and clearing the debris that had been dispersed throughout the area.

Image 6: Repaired drain overflooding and spillage at Flat J 1, Langa Flats

6.1.68 The fire extinguishers installed in the apartment building were found to be inoperative. As a result, any potential fire hazard or outbreak could not be effectively managed. Residents interviewed were unable to confirm whether this issue had been formally reported to the CoCT.

Image 7: Unrepaired fire extinguisher 1 Flat J1, Langa Flats

6.1.69 The continued non-functionality of these fire extinguishers was observed during both Annual Roadshows conducted by the Public Protector in March 2022 and in April 2023.

6.1.70 The contractor failed to secure the roadway along Fort Calata Street during ongoing construction works, thereby creating a hazardous situation. This negligence in workmanship poses a particular danger to children and the elderly, who risk falling into the open trenches.

6.1.71 Furthermore, the drain cap located beneath Fort Calata Street had been removed, thereby exposing motorists to significant risk, as depicted in the picture below:

Image 8: Drain in Calata Street without a cap

6.1.72 Drainage spillage at residences numbered 24–44 on Johnson Ngwevela Street exposes tenants and children to significant health risks. It was also observed that a resident of Johnson Ngwevela Street collected litter strewn along the roadway adjacent to her small business;

6.1.73 In Moses Mabhida Street, sewage spillage and littering occur on a daily basis.

6.1.74 The waste dumpster frequently reaches capacity before the arrival of the CoCT refuse collection truck, as evidenced in the image below:

Image 9: Waste dumpster and sewerage spillage in Moses Mabhida Street

Inspection in loco conducted at Khayelitsha Clinics

6.1.75 The Investigation Team conducted *inspection in loco* between 12 to 15 June 2023 at five (05) CoCT clinics namely, Eastridge, Westridge, Rockland, Mathew Goniwe and Town Two.

6.1.76 During these inspections, material observations were made as outlined below:

Eastridge Clinic

6.1.76.1 The facility was serviced by only one (01) doctor, who was available to attend to patients once a week, specifically on Wednesdays. It was further noted that the clinic lacked a backup power source or generator to ensure continuity of services during power outages;

6.1.76.2 Patient records were still maintained in a non-digital format. In addition, the emergency exits were not adequately marked, instead, notices were merely affixed to the walls. This deficiency creates a risk that, in the event of an

emergency, patients and staff may be uncertain of the correct evacuation routes; and

Westridge Clinic

6.1.76.3 A doctor visits the facility only once a week, on Tuesdays;

6.1.76.4 No psychologist was on duty and only a mental health nurse was available;

6.1.76.5 Security at the facility is limited to a single officer and no CCTV surveillance system was in place;

6.1.76.6 Staff members further informed the Investigation Team that there have been multiple attempts to breach the facility's security,

6.1.76.7 The facility lacked smoke detectors, including in the filing room where the majority of patient records and related documents are stored. Patient files continued to be maintained in a non-digitised format; and

6.1.76.8 Emergency exits were inadequately marked and the facility had neither a generator nor a backup power supply to mitigate power outages. The Investigation Team was informed that during load shedding, medication requiring refrigeration had to be transferred to other facilities for proper cold storage.

Rocklands Clinic

6.1.76.9 A doctor attends the clinic once a week, on Wednesdays;

6.1.76.10 Patient records were maintained in a manual filing system;

6.1.76.11 A pharmacy assistant was available only once a week on Wednesdays, while a pharmacist visited the facility on Thursdays;

6.1.76.12 Security was limited to a single officer, and no CCTV cameras had been installed on the premises; and

6.1.76.13 In addition, the facility lacked smoke detectors, and the emergency exits were inadequately marked.

Town Two Clinic

6.1.76.14 The clinic which is located amidst both formal and informal settlements and serves a large number of healthcare users has a significant staff shortage. It was reported that there are three (03) vacant posts for clinical nursing practitioners and four (04) for professional nurses, in addition to the absence of an on-site psychologist;

6.1.76.15 There is one (01) auxiliary social worker, who visits the clinic weekly on Tuesdays;

6.1.76.16 The clinic is also experiencing an increased demand from mental health care users;

6.1.76.17 There were three (03) security officers on duty with staff stating that the same number is maintained at night;

6.1.76.18 Although the facility is equipped with CCTV cameras, they were non-functional; and

6.1.76.19 The clinic relies on physical files for record-keeping.

Matthew Goniwe Clinic

6.1.76.20 The Investigation Team was informed that, on average, a single nurse attends to between twenty (20) and forty (40) patients and that there was one (01) social worker, who visits the clinic weekly on Thursdays and there were two (02) vacant pharmacist positions; and

6.1.76.21 The facility employs a total of four (04) security officers, with two (02) on duty during the day and two (02) at night. A burglary incident took place in October 2023, and the facility has no CCTV cameras. There were no smoke detectors installed, and patient records have not been digitised.

Response by the CoCT, dated 14 November 2024

6.1.77 A Notice in terms of *Rule 23 of the Public Protector Rules* dated 08 August 2024, was issued to Mr Mbandazayo, the Municipal Manager, requesting a formal response.

6.1.78 The CoCT responded in a letter dated 14 November 2024, signed by Ms Riaana Sayed and states the following:

Eastridge Clinic

6.1.78.1 The clinic functions as a medium-sized facility with a limited patient load. A doctor visits the facility once a week and one (01) to two (02) security personnel are considered adequate for its size. On Wednesdays, three (03) security guards are deployed. The CoCT further indicated that the installation of CCTV cameras at a medium-facility would result in significant unbudgeted costs. It was contended that the absence of CCTV does not impede access to healthcare services or compromise existing safety protocols;

6.1.78.2 Digitisation of patient files was not considered essential, as its primary focus remained on enhancing public assistance with health-related matters rather than allocating limited resources to what it regarded as non-essential initiatives;

6.1.78.3 It has initiated an Information Modernisation Project, known as the Elula Project, aimed at digitising patient health information and improving queue management, among other objectives; and

6.1.78.4 The City's Health and Facilities Management Department would conduct site inspections to evaluate the adequacy and functionality of the emergency exits.

Westridge Clinic

6.1.78.5 The clinic operates as a small facility with a limited number of patients, with the doctor visiting on a weekly basis. The CoCT acknowledges that the clinic lacks a psychologist, however, a mental health nurse is present at the facility. Patients requiring additional support are referred to other establishments capable of providing the necessary assistance;

6.1.78.6 One or two security officers are deemed adequate for the establishment. There was an incident of burglary in the clinic's garage, which specifically targeted the clinic's vehicle. The vehicle has since been removed from the premises and the relevant department was in the process of replacing the garage door with completion expected within the 2024/2025 financial year;

6.1.78.7 The installation of CCTV cameras at the facility would incur significant costs which were not included in the current budget;

6.1.78.8 The lack of CCTV cameras does not hinder access to healthcare or

compromise the safety protocols within the facility. As for the absence of smoke detectors, the relevant department was working on procuring them during the 2024/2025 financial year;

6.1.78.9 To optimise the support provided to the public regarding health-related matters, it is essential to prioritise the allocation of limited funds and resources away from non-essential activities such as digitising files. The Elula Project is anticipated to contribute positively to this objective in the future;

6.1.78.10 The relevant department plans to conduct site inspections to evaluate the emergency exits and a suitable power backup solution will be explored and included in the budget for the facility; and

6.1.78.11 Efforts have been made to secure a backup solution for the facility in the case of load shedding, however, the issue of load shedding remains outside of the CoCT's control. The relevant department is taking proactive measures by transferring medication to other facilities within a four (04) kilometer radius, when necessary, to ensure the medication's potency and safety for use.

Rocklands Clinic

6.1.78.12 The clinic operates as a small establishment with a limited number of patients, which necessitates that the doctor visits the facility only once a week;

6.1.78.13 The digitisation of patient files is not a requirement for patients to access healthcare services as the primary focus is on enhancing support to the public concerning their health issues, rather than allocating scarce funds and resources towards non-essential initiatives such as digitisation of patient files. However, the Elula Project will contribute to this effort by facilitating the digitisation of patient information and associated records;

6.1.78.14 Given that the clinic operates as a small facility with a limited number of patients, it is not necessary for pharmacists to be present on-site every day;

6.1.78.15 The acquisition of CCTV cameras for the facility would incur significant costs and there is no budget allocated for such equipment. The lack of CCTV cameras does not hinder access to healthcare services or compromise safety protocols; and

6.1.78.16 The line department was engaged in the procurement of smoke detectors for the 2024/25 financial year. The line department plans to carry out site inspections to evaluate the designated emergency exits.

Town Two Clinic

6.1.78.17 The clinic has five (05) clinical nurse practitioner positions, of which one (01) was filled on 01 June 2024. The remaining candidates were expected to begin employment on 01 January 2025. There was one (01) vacancy remaining, with shortlisting having been completed on 06 November 2024, and interviews were set to commence later;

6.1.78.18 The clinic employs a total of eight (08) professional nurses, with two (02) vacancies that were filled on 01 June 2024. Interviews for two (02) clerical positions were conducted on 18 and 25 September 2024, respectively. One candidate was hired on 01 November 2024, while assessments for the remaining vacancies were scheduled for 11 November 2024;

6.1.78.19 In addition to the three (03) enrolled nurses, the facility has an enrolled nurse on site, funded by a non-profit organization. Furthermore, there are two (02) enrolled nursing assistants and two (02) vacant positions. Interviews for these two (02) vacant positions were set to begin on 21 November 2024;

6.1.78.20 In addition to the four (04) pharmacist assistants employed at the facility, there is one (01) more pharmacist assistant funded by a non-profit organisation. The current position became vacant in September 2024;

6.1.78.21 Whilst there is no psychologist on-site, however, there is an auxiliary social worker, who is trained to assist psychiatric patients and visits the clinic weekly;

6.1.78.22 CCTV cameras were installed at the clinic to enhance security, but these cameras have been subject to acts of vandalism, which have compromised their effectiveness;

6.1.78.23 Renovations were planned for the clinic, making the repair of the CCTV cameras a lower priority. The lack of CCTV cameras does not hinder access to healthcare or compromise safety protocols; and

6.1.78.24 Digitising of files is not deemed essential and the CoCT prioritises maximising public assistance with health-related matters rather than allocating limited resources to non-essential tasks such as file digitisation. The CoCT has initiated the Elula Project, which aims to address the digitisation of records and patient information across all COCT clinics.

Matthew Goniwe Clinic

6.1.78.25 Its records indicate that on average one (01) nurse sees between fifteen (15) to twenty (20) patients (ratio) and there is a total of six (06) professional nurses and with one (01) post being vacant. Interviews to fill the vacant post were to commence on 13 November 2024;

6.1.78.26 There were four (04) clinical nurse practitioners, one (01) of which was appointed via a Non-Profit Organisation (NPO). The NPO also appointed a

social worker and an additional basic pharmacist; and

6.1.78.27 The line department was in the process of procuring smoke detectors, and it was to be done within the 2024/25 financial year. Digitising files was not a prerequisite as the CoCT's main priority was to maximise assisting the public with health-related issues as opposed to utilising limited funds / resources to digitising files. The CoCT has embarked on Elula Project to digitise patient and other related information and records.

Elula Project

6.1.79 The CoCT further stated the following regarding the Elula Project in its response letter of 14 November 2024:

6.1.79.1 The Health Department of the CoCT initiated the IT Modernisation Project, known as the *"Elula Project".* This initiative is designed to enhance the department's operational processes through the adoption of digital transformation solutions. These solutions leverage customer-focused technologies to optimise operational efficiencies and elevate both staff and customer experiences;

6.1.79.2 This project is being implemented in a phased manner. It includes an appointment system utilised by all clinics. This appointment system enhances the functionality of the Patient Record and Health Management Information System (PREHMIS), which is employed by healthcare facilities to record patient data. However, the system relies on clerks, who are tasked with entering information from the manual folders. Each facility maintains a digital patient folder, such as those for tuberculosis (TB) and Antiretroviral Therapy (ART), which are generated within PREHMIS;

6.1.79.3 It is recommended that all of them utilise the PREHMIS system, as they are engaged in monthly reporting through this platform, which functions as a partial electronic health record. Although the system is capable of recording certain patient-related information, it does not encompass all patient data due to the inherent limitations of the PREHMIS design;

6.1.79.4 The CoCT initiated the *"Elula Project"* to bridge the gap between consultations and data capture, enabling clinicians to input information directly into the system. In the event of a lost patient file, clinical history information can be printed for reference; and

6.1.79.5 The CoCT initiated the Patient Appointment System and CIS e-labs contingent upon site readiness, ensuring that the essential requirements are met at the location. Should these requirements not be fulfilled, the necessary procurement must occur beforehand. The patient folders currently housed in these facilities will remain until the system has fully developed and all related dependencies have been resolved.

Response to the notice issued in terms of section 7(9)(a) of the Public Protector Act

6.1.80 On 18 March 2025, a Notice in terms of section 7(9)(a) of the Public Protector Act (the Notice) was issued to Mr Bredell, Mr Hill-Lewis and Mr Mbandazayo, affording them an opportunity to make representations on the intended findings and remedial action of the Public Protector.

6.1.81 The CoCT was also invited for a meeting with the Investigation Team on 24 or 27 March 2025, for the purpose of discussing, amongst others, the findings and proposed remedial action in the Notice.

6.1.82 Responses to the Notice were received from Mr Bredell and Ms Sayed, Director: Legal Department of the CoCT, responding on behalf of Executive Mayor Mr Hill-Lewis and the Municipal Manager Mr Mbandazayo on 11 April 2025, which were considered, analysed and evaluated by the Investigation Team as reflected below.

Response by MEC Bredell

6.1.83 In his letter dated 25 March 2025, Mr Bredell stated, amongst others, that:

6.1.83.1 He notes the likely adverse findings and proposed remedial action contained in the Notice relating to the investigation into the functionaries of the CoCT and the remedial action directed at him in his capacity as the Minister of Local Government in as far as it relates to the functionaries of the CoCT;

6.1.83.2 He accepts the likely findings and the proposed remedial action to be implemented by the functionaries of the CoCT and confirmed to play his oversight role based on his general constitutional obligation in terms of section 155(6) of the Constitution as regulated by amongst other section 139 of the Municipal Systems Act and section 154 of the Constitution;

6.1.83.3 He confirms that he and the Western Cape Department of Local Government will fulfil whatever constitutional, legislated functions and obligations they have in compliance with the guiding legislation, including monitoring municipalities and their executive structures for compliance with their statutory and executive obligations;

6.1.83.4 He, however, is concerned about what he deems/considers to be inappropriate for the Public Protector to prescribe to him what may or may not constitute breaches of statutory or executive obligations and when he can invoke his

discretionary executive powers as stated in section 139 of the Constitution, stating that; *"It does not follow that non-adherence with the directives contained in your report will necessarily warrant an intervention in terms of section 139 of the Constitution. This is, as you know, a drastic measure which provincial executives should only invoke in clear cases";*

6.1.83.5 He is of the view that the implication of the current wording of the draft directive is that he must invoke his section 139 Constitutional powers should it be shown that the Mayor, the CoCT Council or Municipal Manager have not adhered to the directives contained in the report. This would be an overreach by the Public Protector into the executive domain of his office and an overreach into the discretionary power, which is subject to various factors and considerations within his purview;

6.1.83.6 He proposes that the Public Protector considers amending the directive to align more appropriately with the correct position in law. The current caveat of *"should it become necessary"* is in his view insufficient, especially considering the binding nature of the directives; and

6.1.83.7 He will nevertheless table the report as per the directive, given his general reporting obligations in terms of section 133 of the Constitution, however, it must be noted that his reporting to the Provincial Legislature only concerns matters within his control, so he cannot report on progress made (or not), by the Municipality on its remedial actions in this instance, since it is beyond his control.

Response by Ms Riaana Sayed Director: Legal Services

6.1.84 In a letter dated 11 April 2025, from Ms Riaana Sayed stated, *inter alia*, as follows in response to the section 7(9) Notice:

6.1.84.1 The Notice bundled four separate investigations into one, making it overly complex and burdensome. The CoCT was also given unreasonably short deadlines for responses despite the PPSA taking years to process matters, putting a strain on its limited resources, delays, and procedural unfairness caused by repeated cycles of “urgency”;

6.1.84.2 The apparent urgency and delay in finalising investigations bring with it a host of issues hampering service delivery, information not always readily available, the precarious position of having to field and answer, questions that are unavailable or incomplete. When an investigation is finalised more than two years after the CoCT has presented its position on the matter, the proposed finding, as in this instance, is premised on information that is more than two (02) years old;

6.1.84.3 In respect to the issues, where Mr Hill-Lewis addressed these are more than thirty three (33) months old. It is unclear why follow up inspections and interviews with residents were conducted on several occasions, and as recent as January 2025, but the CoCT was not afforded the same courtesy, despite having followed up on the status of the matter on several occasions. With this backdrop in mind, the CoCT questions the apparent urgency of the matter, as well as timing and potential findings against the CoCT;

6.1.84.4 The CoCT was only afforded seven (07) working days to address the nighty five (95) page Notice. The CoCT addressed the Notice as best as it can under the unreasonably short time frame. The CoCT deems it prudent to note that given this short time frame, it has been unable to extensively interrogate all the information received as it would ordinarily do, but instead provide the information at the behest of the Investigating Team on the understanding that the information is as accurate as possible;

6.1.84.5 Although care has been taken in presenting the information provided herein, the CoCT cannot be held responsible for any errors or omissions, and accepts no liability whatsoever, for any resultant views formed under the circumstances the CoCT has been placed in. The CoCT reserve its rights to supplement and/or amend their response should same be necessitated;

6.1.84.6 Given the apparent urgency of the request, and the extensive, transversal nature of the request, the CoCT attend to address the Notice from the perspective of each relevant line department. The CoCT, regrettably, has been unable to piece all the pieces of the puzzle together and address the allegations in succinct corresponding numerical order and therefore addresses them from each line departments perspective only; and

6.1.84.7 A special request is extended for the Investigation Team to reach out to the CoCT in the event that it has been unable to address any specific issue not covered below.

Electricity

6.1.85 Silvertown (SST–Marikana) is located within an Eskom supply area and only Eskom, can issue the electricity utility boxes. Eskom would need to design and allocate the required budget as per its process, for the electrification of the area, not the CoCT.

6.1.86 The CoCT has no control over illegal electricity connections. Criminals have hijacked and robbed Eskom staff and Eskom has withdrawn its services on more than one occasion and these are issues beyond the CoCT's control. Nevertheless, corrective maintenance interventions are conducted on streetlights in both Langa Flats and Khayelitsha townships. Notifications from customer complaints are attended to continuously.

6.1.87 The high mast lights are subjected to repeated vandalism and theft of the supply cables. These are regularly inspected and repaired when identified, subject to Eskom availability as the supply cables belong to Eskom. These are also not without its own challenges as Eskom itself has suspended services in parts of Khayelitsha because of hijacking and robbery.

6.1.88 The CoCT maintenance teams conduct six-monthly maintenance inspections in line with the maintenance plans and two-yearly structural inspections are conducted and re-active maintenance is also attended to daily. As an example, from 01 July 2024 until 20 March 2025, a total of one hundred and eighty nine (189) repair interventions were attended to for high mast lights in Langa Flats and Khayelitsha townships.

6.1.89 Alternative sources of energy are costly and as correctly pointed out *"subject to, amongst other things, the availability of energy resources and whether the authority in question can afford such resources".* Free Basic Electricity (FBE) is to be provided as part of the Division of Revenue Act. The CoCT passes the FBE on to Eskom for customers, who meet the qualifying criteria.

6.1.90 The FBE, which is dispensed to customers who meet the criteria, is aimed at the very poor customer in both Eskom and the CoCT supply areas.

6.1.91 The proposed remedial action is respectfully overreaching and flawed as Khayelitsha is an Eskom supply area, which places it outside the CoCT's jurisdiction for such matters.

Environmental Health

6.1.92 Sewer blockages and the pothole/sinkhole identified as at the date indicated were repaired/remedied according to Environmental Health.

Security

6.1.93 Regarding the lack of CCTV cameras, it will conduct an assessment for the 2026/2027, 2027/2028, 2028/2029 financial years and the extent of any procurement is dependent on available budget.

6.1.94 As stated in their previous response, procuring CCTV cameras for the establishments is expensive and there is currently no budget for CCTV cameras. The installation of CCTV cameras is also dependant on renovations that are planned for Town Two and Matthew Goniwe clinics.

6.1.95 The CCTV cameras are very costly items, but CoCT intends to install at least one CCTV system at Eastridge Clinic next year (2026), depending on CoCT's Capital Budget Plans in the respective financial year. Given the highly regulated local government environment, the CoCT is unable to simply provide a quotation for an item. The CCTV cameras are procured via a tender process. To obtain a quotation for any tender item the department would need to have access to the relevant tender, thereafter a works project package needs to be created which requires a capital budget for the item which the department currently does not have.

6.1.96 After obtaining the works package number it will be given to the supplier to conduct a site inspection and for which the department will be charged a call out fee.

6.1.97 It is therefore not unwilling, but unable to provide a quotation as requested at this stage. At this point the CoCT is unable to advise what the cost of CCTV cameras would likely be, save to advise that it is extremely expensive. Based on previous years' incurred expenditure, the estimate for CCTV cameras for

Rocklands and Westridge Clinics will probably be in the region of approximately one million Rand (R1 000 000).

6.1.98 While the CoCT endeavours to provide a safe environment to all patients, it cannot ignore the high statistic rate of crime in South Africa and that providing extensive and expensive CCTV cameras is not always attainable, nor the solution. It would not be financially sustainable or effective use of available resources for the CoCT to procure additional CCTV cameras or employ more security if there is no available budget currently to do so, despite the CoCT's best efforts to safeguard staff, the public and the CoCT resources/assets. The CoCT's main priority is to maximise assisting the public with their health-related issues.

6.1.99 It is prudent to note that the CoCT operates in a resource constrained environment and budget provision must be allocated at least one (01) year in advance and supply chain management processes must be followed. Should the CoCT fail to do so, this could result in unauthorised, irregular or fruitless and wasteful expenditure and the Public Protector could hold the CoCT to account for maladministration.

6.1.100 To complement the lack of CCTV cameras, the facilities have security personnel during the day and during the night. Additional security personnel were appointed at the Westridge Clinic commencing duty in April 2025. The security personnel are responsible for perimeter patrols during the day and during the night. In addition to the security personnel in the clinics, there are guard dogs that are utilised during the night at Town Two clinic.

Emergency exits

6.1.101 The CoCT deems it prudent to advise that the emergency exits at the inspected clinics, namely, Eastridge, Westridge, Matthew Goniwe, Rocklands and Town Two are compliant with SANS 10400-T:2011 standards. Health and Safety representatives conduct inspections monthly and the Emergency Management Plan (EMP) safety signs are included in the checklist for when they undertake these inspections.

6.1.102 Occupational Health and Safety and Facility Management departments will furthermore arrange to review the emergency exits again in April 2025 to evaluate emergency protocol including exits and signage.

6.1.103 The standard health and safety requirement is to affix emergency escape route signs high up against escape doors or walls or hung from ceilings, but there is no requirement to affix any sign on the floor. Another important consideration supporting this approach is in terms of the Department of Labour's, Environmental Regulations for Workplaces, 1987, which in section 9(1)(b) ensure that all emergency exits are unobstructed and kept clear and allow easy evacuation.

Human Resources

6.1.104 There are currently no vacant clinical nurse practitioner vacancies and there is only one (01) professional nurse vacancy which became vacant in December 2024. The shortlisting process for a suitable candidate has been completed and the interview date was still pending.

6.1.105 The clerical vacancies were filled in November 2024. The clinic is supported by a roving enrolled nurse assistant funded by a non-profit organisation (NPO).

There are four (04) enrolled nurse assistant's positions, two (02) of which are vacant. The CoCT has no control over staff movements. Interviews took place on 13 March 2025. Successful candidates should be appointed by May 2025.

6.1.106 The CoCT disagrees with the observation by the Investigation Team that it has not taken measures to capacitate the clinics as highlighted by the recruitment process the clinic was to fill any vacancy. The recruitment processes were underway as and when the need arises and vacant posts were filled as and when possible and/or when the recruitment process has been concluded.

6.1.107 The CoCT deem it prudent to advise that it is not in control of staff movements *i.e. transfers, resignations, retirements etc*. There is furthermore a human resource process for the recruitment of approved qualified staff to fill resultant vacant posts. On occasion filling one post may result in a consequential vacancy when a post is filled internally. It is therefore respectfully unclear what additional measures the CoCT was required to disclose to substantiate that it capacitated the various clinics.

6.1.108 There are four (04) basic pharmacist assistants (PBPA) currently employed at the facility. The NPO funded PBPA support has since been removed, due to withdrawal of foreign funding, which is also beyond the CoCT's control. There are three (03) psychologists supporting the CoCT Health facilities on a rotational basis. Town Two clinic is at present not included in this schedule. While the psychologist is not stationed at Town Two Clinic, patients do have access and can be referred from Town Two Clinic to the clinical psychologist covering the area, should the need arise.

6.1.109 Additionally, there is an auxiliary social worker, provided by a NPO at Town Two Clinic, who is trained to provide social support, linked to psychiatric care,

visiting the Town Two clinic weekly. Town Two Clinic also begun mental health screenings and the staff have received the necessary training to attend to this.

6.1.110 An auxiliary social worker supports the facility every Thursday, whilst a CoCT Health psychologist provides service every alternate week. There are also two (02) pharmacists employed, with no vacancies. The vacant professional nurse position has since been filled, there are now a total of seven (07) professional nurses, with no vacant positions.

6.1.111 The clinic has a total of five (05) permanently employed clinical nurse practitioners. The fifth position will be filled in April 2025. The clinical nurse appointed via a NPO is no longer available due to withdrawn US Aid Stop order funding. The auxiliary social worker appointed by the NPO remains, whilst the facility has lost a PBPA (ANOVA) due to withdrawal of foreign funding.

Fire/Smoke detectors at Town Two and Mathew Goniwe Clinics

6.1.112 Smoke detectors are subject to/dependent on renovations. The facilities are due for major upgrades and approval for professional services are underway. The project is estimated to commence in the 2026 /2027 financial year. To effect changes when renovations are already planned may result in fruitless and wasteful expenditure and would be inefficient use of already strained resources. As previously advised Town Two and Matthew Goniwe are currently undergoing renovations, and site inspections were conducted in March 2025 regarding renovations of the respective facilities. Smoke detectors will be procured once the renovations have been completed.

6.1.113 The CoCT deem it prudent to point out that it is not that matters are not important or urgent enough to warrant immediate attention, but that it operates in a resource constrained, highly regulated environment. Budget provision

must be allocated at least one (01) year in advance and supply chain management and other internal processes must be followed. Should the CoCT fail to do so, this could result in unauthorised, irregular or fruitless and wasteful expenditure and the Public Protector could hold the CoCT to account.

6.1.114 Assessments of smoke detectors are carried out via different departments and the Facility Management Department, necessitating that site inspections be planned when all the necessary officials are available.

6.1.115 It will be fruitless and wasteful expenditure to incur costs at this point while renovations are still underway at Town Two and Matthew Goniwe Clinic. There are fire extinguishers in all facilities, and they are being serviced annually. The recommendation is therefore moot and not possible or practical at this stage.

Fire/Smoke detectors at Rocklands, Eastridge and Westridge Clinics

6.1.116 Site inspections were conducted at the various clinics and previous smoke detectors have been upgraded to the latest versions. These were installed at Rocklands, Eastridge and Westridge Clinics on 28 February 2025. There are fire extinguishers in all facilities, and they are being serviced annually. The recommendation is therefore moot.

Elula Project

6.1.117 Town Two has rolled out all active components of the Elula Project, and there is therefore a future plan for record keeping. The facility has rolled out all active components of the Elula Project, to full capacity PAS, CIS and RX. All relevant clinicians have access and have received training on the use of SPV (‘Single Patient Viewer’). This provincial health information system provides a comprehensive clinical picture of the patient at any public health facility, to all

appropriate staff. It ensures seamless care, mitigates unnecessary tests and allows the clinician to monitor treatment initiation and adherence (especially in TB and HIV care).

6.1.118 The implementation of the Patient Administration System and Patient Portal aims to book appointments, decrease waiting times and improve patient flow and congestion within our facilities, marking the first step towards digitising patient folders. CoCT also made significant progress in implementing some modules of the Clinical Information System (CIS), another component of Elula.

6.1.119 This system allows clinicians to capture, store and share medical information electronically. Currently, the investigation and appointment modules are implemented in all facilities, enabling clinicians to request blood orders electronically, view laboratory results and can schedule follow-up appointments for patients.

6.1.120 These efforts are part of our initiative to move the CoCT facilities towards an Electronic Medical Record (EMR) system, which will be a digitised patient record. Some CIS modules are still in development and CoCT was piloting two (02) modules at St. Vincent Community Day Centre. The plan of the CoCT is to develop and pilot all CIS modules in a quick/easy manner to ensure that a viable EMR system can be rolled out to all CoCT facilities. The CoCT deems it prudent to note that this will not eliminate paper-based folders but will be a significant step towards a paperless EMR.

6.1.121 After the pilot of CIS modules, scheduled for completion in June 2025, the CoCT will address all system bug issues and develop an implementation plan to roll out the system to other CoCT facilities. CoCT Health understands the importance of improving patient care, efficiency and patient empowerment,

which is why CoCT embarked on this journey of implementing the Elula System.

Backup power supply

6.1.122 While the CoCT concedes that there is no generator at some of the facilities, there is an UPS (uninterruptable power supply) as an alternative mode to backup power supply. The Clinic has measures in place when/if load shedding occurs. Functional UPS/Generators are in place as follows:

(a) Eastridge has a UPS (installed 31 January 2024);
(b) Westridge has a portable generator;
(c) Rocklands has a portable generator (both portable generators were installed on 26 March 2025);
(d) The generator at Town Two was under repair and not functional since 27 January 2025; and
(e) Mathew Goniwe has a functional generator which was last serviced on 28 February 2025 and the facility does not have a UPS.

6.1.123 The generator at Town Two was being repaired and is not functional since 27 January 2025. Mathew Goniwe has a functional generator, which was last serviced on 28 February 2025. The recommendation is therefore moot and not possible or practical at this stage in respect of Town Two and Matthew Goniwe Clinics. There can therefore be no violation by the CoCT as alleged. Any adverse finding or remedial action in this regard would therefore be flawed.

Environmental Health

6.1.124 Regarding the health nuisance in Langa and Khayelitsha Townships, and elsewhere for that matter, when Environmental Health identifies an issue, they

report the issue on the CoCT's SAP C3 system (a service notification system that captures and stores information about service requests and problems reported by the public), where internal CoCT departments are responsible for taking corrective action. These are established following routine monitoring and inspections, and/or following complaints from the public. If the issues are not resolved, Environmental Health would escalate the issue to higher management in the department responsible. Once the department takes action to resolve the issue, they close the C3/service request.

6.1.125 The C3 notification/service request would remain open/active until such time as the department responsible resolves the issue. Until the issue is resolved, Environmental Health will persist with escalations until such time as the nuisance is resolved.

6.1.126 After an Environmental Health Practitioner has identified/received a complaint of a problem, they investigate, take pictures and report them to the relevant department via the SAP C3 system and obtain a reference number. They conduct a follow up inspection to ascertain if the issue has been resolved. If it has not been resolved, the escalation process is then followed. If it has been resolved, no further action is taken.

6.1.127 There is an existing internal complaints resolution mechanism since the Environmental Health Department does attend to routine monitoring and takes action against sister departments within the CoCT as well as external third parties.

Urban Mobility: Roads and Infrastructure Management (RIM)

6.1.128 Ms Matiwane is its former employee of the Water and Sanitation Directorate and had no standing/authority to comment on Roads and Infrastructure

Management matters. She lacked the authority to make commitments as well as to make comments regarding contractors' workmanship. It is not apparent whether her authority to address the issues were confirmed beforehand. Her potential lack of knowledge on the subject matter may have been a contributory factor to this misinformation.

6.1.129 Regarding the contractor's workmanship, it is unclear what was being observed at the time. It is noted that Ms Matiwane was likely referring to temporary work that was undertaken at the time, whereby the area is made safe, prior to permanent repairs being carried out. This is especially common during wet conditions. Regarding poor performance/substandard workmanship by contractors, when this occurs contractors are penalised and must redo the work at their own cost.

6.1.130 The work would also have to be signed off by a project manager and be quality assured before being signed off as complete and up to standard. This would not have occurred if the work being undertaken at the time was of a substandard nature. Any fault on the part of the CoCT is therefore denied.

6.1.131 The sinkhole in question, according to Roads and Infrastructure Management knowledge, was Water & Sanitation (Sewer) related. Despite the matter going so far back, staff recall that Roads and Infrastructure Management informed the Water and Sanitation directorate about this sinkhole in March 2022, Water and Sanitation then repaired the section in question prior to a resurfacing project by Roads and Infrastructure Management, which was undertaken in April 2022.

6.1.132 Sufficient information regarding maintenance schedules with a holistic view of planned maintenance work per financial year was already provided with the response of 07 February 2023, and annexures sent on 08 February 2023.

Furthermore, the pictures on pages 11-12 of the Urban Mobility: Roads Infrastructure Management Presentation (previously provided), depicts resurfacing that was undertaken at said locations.

6.1.133 It should be noted that Sulani Drive was resurfaced in April 2022, at Bonga Drive, as part of the Roads and Infrastructure Management's scheduled resurfacing programme. The decision to resurface the road was made prior to the Public Protector's inspection, based on the department's assessment of its condition. The resurfacing was not carried out in response to the inspection or any findings made by the Public Protector.

6.1.134 A further resurfacing schedule for the next 2-3 years was in planning phase. Before each financial year, the CoCT re-assesses all roads planned for the financial year and then prioritise accordingly, based on road condition, etc.

6.1.135 The CoCT expresses serious concern that the feedback previously provided was disregarded, particularly with regard to the Urban Mobility: Roads Infrastructure Management Presentation. This lack of consideration undermines the effectiveness of the process. The CoCT advised that all annexures provided contain supporting evidence and are therefore equally important in considering CoCT's position.

6.1.136 The presentation contained sufficient information on challenges and concerns such as forced work stoppage and community disruptions, by members of the community themselves, armed robbery, intimidation, extortion, local labour issues, EPWP-related challenges, proximity of standpipes, decanting of grey water on the road surface, raw sewerage on account of illegal dumping, amongst others.

6.1.137 Other important information that was ignored include the various maintenance schedules and statuses, as well as education and awareness efforts relative to illegal dumping. It is unclear what the motivation for not considering the annexures were, but the fact that *crucial* information was not considered is fatal to the investigation. It is unclear at this stage what other evidence was not considered/ taken into account.

6.1.138 The Investigation Team has been at pains to point out when CoCT "*fails to provide evidence*" of some or other issue and has never requested progress reports or updates from Legal Services, like they have done with the community, yet fail to take evidence into account when presented with supporting evidence.

6.1.139 The site supervisor or the person who did the interview is not representing Urban Mobility-Roads and Infrastructure Management, and therefore neither has the facts, experience nor authority to speak about the stormwater network the project referred to and/or construction process, is not a storm water project as Urban Mobility-Roads and Infrastructure Management did not have any projects at this time. Stormwater drainage systems no longer use asbestos pipes, but Class 100D concrete stormwater pipes. The diameter of the Stormwater pipes in Sulani Drive for example varies from 450mm to 525mm diameter, which is suitable for the stormwater demand and could not be considered as *'small, narrow underground pipes made of asbestos, which are inadequate for the growing population".*

6.1.140 Fort Calata Street was resurfaced in the 2019/20 financial year, the work depicted was not that of Urban Mobility-Roads and Infrastructure Management nor does it resemble Urban Mobility-Roads and Infrastructure Management standard working practise. Urban Mobility-Roads and Infrastructure Management Central did not have any contractors working in Fort Calata

Street after this period (it is noted that the image was taken in May 2023). It is therefore unclear what work was being undertaken here.

Urban Waste Management

6.1.141 Waste Services Collections Branch services Langa five (05) days a week in different beats or geographical parts of the suburb. The flats in question are a challenge in several ways, but the Branch can report that these are serviced four (04) days per week as follows:

(a) Mondays – the units in Bunga Avenue;
(b) Tuesdays – Lidia Gyoyi;
(c) Wednesdays – L Block; and
(d) Thursdays – N2 Gateway.

6.1.142 The challenges experienced relate to low overhanging illegal electrical connections which inhibit access by various service vehicles, sewerage spills caused by illegal sewer connections and blockages caused by dumping of foreign objects into the sewer networks, excessive waste generation and dumping/littering, bulky waste and narrow roads.

6.1.143 The narrow roads are as a result of illegal occupation and encroachments into the road reserve, which also inhibit access. The usage of bin staging areas for the purpose other than intended for, is also problematic. This includes the community using the bins as a storage facility, water receptacle, mode of transport for other recycled material, etc.

6.1.144 In light of the challenges outlined above, the Branch will explore alternative waste collection methodologies, drawing on lessons learnt from service improvement pilot initiatives implemented in other areas. This is, however,

subject to a cost benefit analysis being conducted as well as available resources, before enhanced services can be considered for implementation.

6.1.145 The CoCT deem it prudent to advise that these were always in the pipeline and part of the departments' plan and not on account of the investigation by the Public Protector. The allegations that the CoCT is neglectful/failing to meet its obligations are therefore denied.

6.1.146 The Public Awareness Unit within Urban Waste Management (UWM) reiterates information presented more than two (02) years ago to the Investigation Team, save for indicating that the number of EPWP workers in Khayelitsha have now increased from four (04) members to eight (08) for the current financial year (2024/2025).

In Sub Council 15 – Langa

6.1.147 Education efforts are ongoing at schools and Early Childhood Development (ECD's) Centres through engagements with Bingo, the CoCT's Anti-littering mascot, as well as educational tours to CoCT waste management facilities as follows:

(a) Broader public Awareness- efforts in mall exhibitions, taxi interchange, door- to- door initiatives and Library Waste Awareness Programs;
(b) Mayoral Campaigns- Supporting Spring Clean Campaign and Basket of Services campaigns;
(c) Government Departments Roadshow – exhibition and waste awareness; and
(d) Collaborations with sister departments - clean ups and awareness.

Sub Council 9 and 10 – Khayelitsha

6.1.148 Education efforts are on-going at schools and ECD's through engagements with Bingo, the CoCT's Anti-littering mascot, as well as educational tours to the CoCT waste management facilities, ongoing capacity sessions to civic organisations and NGO's i.e. neighbourhood watch, Yabonga and Community leaders as follows:

(a) Broader public awareness efforts in mall exhibitions, taxi interchange, door-to-door initiatives and Library Waste Awareness Programs. In addition to ongoing initiatives, in 2023, Sub Council 9 installed twenty-eight (28) green bins at Solomo Tshuku and Idada streets. This initiative was supplemented with awareness and education on and about the installation in the form of door-to-door and onsite exhibitions. From 2024, the Public Awareness unit supported sister departments with their ongoing bulk refuse bin distribution in both Sub-Councils 9 and 10;

(b) Mayoral Campaigns - Supporting Spring Clean Campaign and Basket of services campaigns, and

(c) Collaborations with Sister departments - Beautification, Clean ups and Awareness, "Don't block It Bin It", Campaign with Water and Sanitation.

6.1.149 Complaints are reported in two (02) ways: emails/phone calls/ WhatsApp messaging or via the C3 notification system. Complaints are attended to daily, but due to resource constraints it is not always possible to deal with all complaints in a given day. The Branch, from an organisational performance level, aims to resolve complaints within three (03) working days and this remains the endeavour of CoCT.

6.1.150 It is important to note that complaint records or notifications are only closed once they have been fully resolved or attended to. Community members are kept informed of developments relating to a complaint, provided they were the ones who reported it.

6.1.151 Notifications or complaints are finalized with supporting pictorial evidence to the complainant to update them on the status of their complaint. Therefore, the allegations of lack of responsiveness, poor communication, insufficient feedback, or that the CoCT has been neglectful or failed to meet its obligations are categorically denied.

6.1.152 Notwithstanding ongoing litter and refuse cleaning, as well as, education campaigns and efforts, as previously mentioned, illegal dumping remains a challenge. Efforts are also undertaken over weekends. Cleaning services are provided Monday to Friday, which includes, litter picking, street sweeping, cleaning of green litter bins and removal of bulk waste and illegal dumping removal within the formal residential areas.

6.1.153 The CBD area is also serviced on Saturdays and Sundays. This service compliments the weekly collection of 240L bins removal by the collections team. Street cleaning services are provided daily, five (05) times per week for all sandy areas including Khayelitsha and Langa. Building rubble that requires mechanical intervention is removed through internal resources.

6.1.154 The Integrated Waste Management Bylaw (the Bylaw) was promulgated and there is a dedicated unit which enforces the Bylaw. The CoCT is in the process of reviewing this Bylaw to address gaps that have been identified in the enforcement space and to align with the waste strategy action plans. This will require a collaborative approach from different role players and is an ongoing

effort. Law Enforcement deployment in Langa is four (04) days per month focusing on visible patrols.

6.1.155 Urban Waste Management does attend to complaints, but reporting of illegal dumping by residents remains a constant challenge and only two (02) complaints for this financial year were received. Awareness drives are supported jointly with the Public Awareness and Education unit.

6.1.156 The skip services the hostels across from it and the Hostel management team cleans around the skip daily. It is, however, also noteworthy to mention that these are despite the CoCT's ongoing efforts to educate the community on the consequences of littering and dumping in their own areas.

6.1.157 Hostel Management is responsible for the containment of waste from flats/hostels into the skip. There is a contracted service that empties the skip on a schedule of three (03) times a week. There is also a contracted cleaning service in the area Mondays to Fridays, which attends to street sweeping, litter picking, cleaning of green litter bins and removal of bulk waste on the periphery of these flats/hostels, but not within.

6.1.158 Street cleaning services is provided daily Monday to Friday for all sandy areas including Khayelitsha and Langa.

Housing Development

6.1.159 The Housing Development Department confirms that the most recent project completed in Khayelitsha was the Harare Infill Housing Project, finalized in June 2023, which entailed to deliver nine hundred (900) service sites and nine hundred (900) top structures. To date all sites and top structures have been completed and handed over to beneficiaries with title deeds. The Department

planned to develop in the area, but land invasions negatively impacted those projects.

Public Housing

6.1.160 The Public Housing Department is regrettably not fully aware of all the issues raised at present/previously presented due to non-involvement at the time and the erstwhile Director that committed to these having been dismissed in early 2024. The new team is, however, eager to establish what has transpired under the previous leadership and attempt to resolve any outstanding issues. The team is still investigating this further and will provide any information once received should it be required or the opportunity present itself.

6.1.161 The team will be trying to set up an engagement with the tenants or the tenant committee to deal with the issues in the month of May as they will need to plan and engage the Ward Councillor first.

6.1.162 The last survey that they are aware of is that of 2020. CoCT deems it prudent at this juncture to point out that the Public Housing Department is under new management, and therefore not all information is readily available/discernible. It is to be noted that the community was consulted on numerous occasions, and as recent as January 2025, had the same courtesy been extended to the Department/CoCT, the issues could have been investigated timeously and/or addressed.

6.1.163 The Langa Housing Office will be able to complete this after the occupancy survey is done with those tenants that qualify and those that are willing to sign lease agreements. Those that do not want to enter into lease agreements would then have to be given notification to vacate, failing which, potential

eviction process would need to be implemented which may result in mass protests, and/or relocation and/or eviction action and/or homelessness.

6.1.164 Under the current circumstances and truncated timeframe afforded, the CoCT is only able to address and advise on what is apparent at this stage. Given the opportunity, the Department will address any further and/or outstanding feedback.

6.1.165 The timeframe provided for doing so is regrettably insufficient for what appears to be an enormous task. The current team has endeavoured to broadly address the issues raised and given additional time and/or an opportunity to do so, the team shall endeavour to provide additional information if required.

6.1.166 The department has a yearly EPWP cleaning programme in Langa, which focuses on the cleaning of the outside of the flats/hostels in Langa. They ensure that waste is cleared and moved to the skip bins within Langa. Urban Waste Management ensure the clearing of the skip bins. The department also has a cleaning contract that is utilised for *ad hoc* cleaning requests that cannot be attended to by the team themselves. The department does clean communal areas of the flats but is not aware that occupants also contribute one hundred Rand (R100) per month to ensure it is cleaned.

6.1.167 It is, however, concerning to note that the allegation is permitted and levelled without any evidence *(such as receipts, invoices etc.)* being tendered, particularly since the expectation placed on the CoCT, is for it to provide supporting evidence. It is further concerning to note that the occupants pay someone to clean communal areas at a potential cost of seventy thousand five hundred Rand (R70 500) per month. This has not been substantiated, nor does it seem plausible.

6.1.168 The CoCT has for the 2024/25 financial year employed the services of eighty seven (87) EPWP workers, split across three quarters in Wards 51 and 52 in Langa and as follows:

1st Phase: October 2024 to November 2024:

(a) Ward 52 (Old Flats) - 12 Workers & 1 Supervisor;
(b) Ward 52 (Zones) – 16 Workers & 1 Supervisor; and
(c) Ward 51 – 10 Worker & 1 Supervisor.

2nd Phase: December 2024 to February 2025:

(a) Ward 52(Old Flats) - 11 Workers & 1 Supervisor;
(b) Ward 52 (Zones) – 12 Workers & 1 Supervisor; and
(c) Ward 51 – 10 Workers.

3rd Phase: March 2025 to June 2025:

(a) Ward 52 - No active workers, busy with appointments; and
(b) Ward 51 –10 Workers & 1 Supervisor.

6.1.169 The occupancy survey was conducted in June 2020 (during Covid-19). Since the completion of the surveys, nine (09) new allocations of rental units have been made, and twenty seven (27) leases have been renewed. These have been recently signed in 2024 and 2025. The Department has a local housing office in Langa that tenants can visit regarding lease agreements as well.

6.1.170 The department has on numerous occasions engaged with the residents to get them to sign lease agreements, but only one hundred and eighteen (118) came forth, five hundred and eighty seven (587) of the seven hundred and five (705)

are outstanding. Some of the tenants, who previously signed lease agreements, are reluctant to renew their leases. Some of the reasons for not concluding lease agreements are:

(a) due to the conditions of the units;
(b) the occupants do not qualify;
(c) the original beneficiary/tenant is not in the unit and the existing tenant would need regularising;
(d) the occupants do not want to pay rent;
(e) there are tenants that are paying rent to the original beneficiary/tenant, who is now living somewhere else.

6.1.171 Without rental payment, the CoCT does not have funds to reinvest into the units as it should be (cost-recovery). Langa housing office officials are continuing with efforts of convincing the residents to enter into a lease agreement, but they refuse for various reasons.

6.1.172 During 2024, the team conducted house visits to inform and educate Joe Slovo residents on the significance of being a legal/lawful occupant of the units. In February 2025, the team engaged with the local councillors requesting a meeting pertaining to unlawful occupancy.

6.1.173 Regardless of the fact that occupants refuse to sign lease agreements with the CoCT, in terms of upgrades and maintenance/service delivery, the CoCT continues attending to all Joe Slovo service notifications logged when repairs and faults are reported at the Langa housing office.

6.1.174 From an upgrade perspective, based on availability of funds and priorities in terms of conditional assessments, the current project in progress is the

upgrading of the plumbing (*Relocate internal sewer stack to exterior and upgrade shared bathrooms to male and female at Langa Old Flats*).

Overall Hostels Transformation Programme

6.1.175 The CoCT is fully aware of the living conditions in the hostels (Gugulethu, Langa, Nyanga) and has all the intentions of implementing a Hostel Transformation Program. Funding for the Hostel Transformation Programme, however, comes from the Provincial and National Departments of Human Settlements. The funding and implementation proposal that was submitted for this was never approved by the Provincial and National Departments of Human Settlements.

6.1.176 The CoCT depends on that funding for the hostel transformation project, therefore, implementation can only happen if approval comes to fruition. Funding availability is the main determining factor for projects such as the hostel transformation project to start.

6.1.177 Discussions with the Provincial and National Departments of Human Settlements, regarding the provision of funding for future projects, are ongoing. The CoCT is also considering other alternatives if the funding from the Provincial and National Departments of Human Settlements does not get approved. These include other sources of grant funding, donor funding and improving rental collection so that it can access more funding.

6.1.178 In terms of operating the budget for repairs & maintenance, Public Housing requires four hundred and thirty million Rand (R430 000 000) per annum as per AMIP. Regrettably the Department receives on average less than two hundred and fifty million Rand (R250 000 000) per annum approved funding for 2024/25: two hundred and sixty four million Rand (R264 000 000).

6.1.179 The Public Housing Department spent 96% of its budget in the 2023/24 financial year and is on track to meet the target of 95% spend for 2024/25. As is evident from the above, prioritising the use of allocated funding across both capital and operating funding, and with forty two thousand five hundred (42 500) units across CoCT, is not an easy task.

6.1.180 As an unfortunate consequence of the extensive funding shortfalls, the backlog of C3 notifications is regrettably growing. Notwithstanding these challenges, CoCT ensure Priority 1 and Priority 2 requests are targeted and addressed as per the AMIP. The CoCT have four (04) Priority categories, namely Very High, High, Medium and Low. The Department also undertakes the following efforts to improve collection ratios:

(a) Partnering with the Revenue Department, who has the mandate for billing and debt collection in terms of CoCT policies;

(b) Targeting the highest debtors to ensure they apply for indigent grant, make payment arrangements and adhere to it: Tenancy Management;

(c) Revenue Collection drives at the Housing Estates: Prioritising estates with highest outstanding debt;

(d) Prepaid electricity metre deductions: Investigate water metre deductions;

(e) Communication: Sending messages via sms's to remind tenants of their debt to CoCT;

(f) Addressing unlawful occupation by either regularising tenancy (*Amnesty campaign*) or commencing legal processes to obtain eviction orders where necessary;

(g) Ensuring the finalisation of Transfer of Tenancies in cases of death, divorce or relinquishing of tenancies;

(h) Ensuring that two-year lease renewals are up to date;

(i) In-house training of both Tenancy and Revenue staff to ensure efficiency and effectiveness in their respective areas of responsibility;

(j) The possibility of having tenants sign debit orders is currently being explored;

(k) Comprehensive survey of all the units: Request for proposals being investigated;

(l) Digitisation of housing office records and automation: Engaged IS&T to commence Phase 2 of the Housing Estates Automation of Processes (HEAP) project;

(m) Implementation of AMIP in respect of the upgrades and maintenance of the CRU's; and

(n) Establish Housing Safety Unit in the directorate: To improve ability to deal with anti-social behaviour and do more regular house visits.

6.1.181 Contrary to the allegations, prepaid debt recovery measures are being implemented by the Revenue Department to recover monies due to the CoCT. Prepaid Meter (PPM) deductions are growing incrementally with deductions on electricity purchases from tenants, this motivates them to come to the offices to make payment arrangements and apply for indigent grants, hence there is also an increase in the indigent and payment arrangement applications.

6.1.182 This is a task that can only be implemented incrementally and is not a recovery exercise that can simply be implemented across the board overnight. The reason for incremental growth is because deductions are first implemented against a tenant's other debt *i.e. rates and services arrears* and deductions for rental occur thereafter.

6.1.183 The Public Housing Department has investigated transversal tenders, but it has become apparent that they do not suit the Department's requirements. The Department will therefore be procuring its own tender.

6.1.184 Given the age of the information previously presented and relied upon, the maintenance team with the professional service provider will conduct an inspection of the fire hose reels to establish if it still requires repairs/replacement. These will be repaired/replaced, if required, in this financial year (2024/2025).

6.1.185 Given the age of the information previously presented and relied upon, the maintenance team with our professional service provider will conduct an inspection of the structural cracks to establish if it requires repairs. These will be repaired, if required, in this financial year (2024/2025).

6.1.186 Given the age of the information previously presented and relied upon, the maintenance team with our professional service provider will conduct an inspection of the fire extinguishers to establish if it still requires repairs/replacement. These will be repaired/replaced, if required, in this financial year (2024/2025).

Water and Sanitation

6.1.187 Some of the challenges experienced by the operational teams include an ever-increasing number of illegal structures being built, many times over the infrastructure servitudes and the abuse of the sewer system in many areas. Illegally built structures on top of the CoCT infrastructure, significantly increases the difficulty of sewer maintenance and repairs.

6.1.188 There is a very real risk of damage and/or injury, when sewer collapses and overflows occur when these illegal structures are built within close proximity or even over sewer infrastructure. The Langa area is predominantly serviced by midblock sewers.

6.1.189 The development of additional small scale rental units would very likely negatively impact the existing midblock sewers, by introducing ever increasing volumes of sewage and foreign objects as densification occurs.

6.1.190 Another significant limitation in this area is the safety concerns around the operational teams and their vehicles when working in these areas, especially with the recent spike in car hijackings. Operations in these locations require extensive planning and additional security escorts to deliver the required operational services.

6.1.191 According to C3 information, there were twenty six thousand five hundred and eighty two (26 582) notifications from November 2021 to end February 2025 in the area. Notifications are closed after resolution, cleaning and tidying the location in question. In both areas, very few overflows are caused by sewer collapses with only 4% of C3's logged caused by collapses in Langa and only 1% in Khayelitsha. Sand, however, does play a major role in Khayelitsha and accounts for 24% of C3 notifications from 2021 to date.

6.1.192 Some of the projects that were undertaken include but are not limited to, multiple interventions for Sub Council 9, with door-to-door campaigns to raise education and awareness. Locations included:

(a) Ward 89 & 90 (Site B)
(b) Ward 87 (Site C)
(c) Ward 93 (Green Point)

6.1.193 For Khayelitsha, the CoCT had door-to-door campaigns to raise education and awareness on prevention of sewer blockages, water conservation and other water related issues, including vandalism of CoCT infrastructures. The door-to-door campaigns again took place from 04 November 2024 to 19 December 2024. These included public media releases that were distributed internally and externally during 2021 & 2022 which covers theft and vandalism.

6.1.194 In Sub Council 10, EPWP workers were recruited for distribution of educational materials in Ward 97 (Ekuphumleni, Graceland) and Ward 98 (Harare & Litha Park). Contained, inter alia, in the educational materials was information in relation to data which was retrieved from C3 in connection with the main cause of sewer blockages, which includes Langa. The main cause of the sewer blockages are foreign objects 57%, fats 5% and rags 7%, which contributes a total of 69% of sewer blockages reported.

6.1.195 The CoCT uses the Reactive Incident Management System ('RIMA'), which enhances its tracking and coordination of sewer spill responsiveness through digitisation. RIMA is already in place and all notifications are being tracked and catalogued. Notifications can be submitted through CoCT's website.

6.1.196 The system will help ensure a cleaner and more resilient CoCT. The submission of notifications should not be data intensive, but the local ward

councillors have availed themselves and been assisting the communities to log and update notifications.

6.1.197 The department has developed high levels of agility to respond to the myriads of incidents that occur daily at installations and at points along the network. The upkeep of the assets is critical to maintaining the required level of service provided to customers through the reticulation distribution and conveyance network. In order to sustain and improve the quality of asset care and services rendered to customers, the Reticulation branch developed and implemented a mobility solution using current day technology, people skills and business processes that will realise improvements in maintenance quality of work, integrity of the database and ultimately a positive end to end customer journey.

6.1.198 In the past financial year, the roll out of phase 2 and 3 of the RIMA project (a Reactive Incident Management System) was completed at all 23 Reticulation depots within the 04 (four) Region model with the strategic goals of enhancing operational efficiencies, reducing costs and improving the organization's responses to complaints of non-conforming services as well as supporting applicable MFMA and the CoCT Manager directives in relation to key branch and official responsibilities.

6.1.199 Approximately three hundred and twenty (320) Mobi Users have been brought onto the new system, the depot's teams with Mobi devices include; Mitchells Plain (S), Langeberg (S), Blomtuin (W&S), Atlantis (W&S), Killarney (W&S), Pinelands(S), Socony (S), Hillstar (W), Parow (W), Delft (W&S), Melton Rose (W&S), Kendal Rd (W&S), Strand (W&S), Vaalfontein (S), Khayelitsha (W&S).

6.1.200 The statement is correct. In this regard, please see attached Annexure C for the draft Region 4 2023 sewer master plan, Annexure D for the sewer PAP report, Annexure E the PRP and Annexure F for the Small-Scale Rental Unit

investigation report. These provide evidence of the ongoing efforts and initiatives undertaken by the CoCT to sustaining its water and sanitation services to accommodate the growing number of households within its jurisdiction.

6.1.201 No evidence of reporting by residents were provided. In the absence thereof the CoCT can at this stage only conclude that the matter was not reported by a resident. From C3 data the main cause of sewer blockages in sub-council 15 (which includes Langa), is foreign objects (57%) rags (7%), and fats (5%) which contributes a total 69% of sewer blockages reported which are beyond CoCT's control.

6.1.202 Sewer rings and pipes are damaged by the community resulting in sand and litter clogging the sewer lines resulting in overflows. The spillage also spills out of the holes made by the community themselves. Illegal connections include grey water and toilets, are not catered for and therefore cause the spillage complained of. Sewer manholes are furthermore built over with concrete structures, enclosed in yards and garages etc and are inaccessible. These exacerbate blockages and overflows.

6.1.203 Contrary to allegations, services are being rendered in SST– Marikana as follows:

(a) 35 Chemical Toilets confirmed 100%
(b) 281 Full Flush Toilets and
(c) 143 water taps.

6.1.204 It is unclear how the Investigation Team established that the occupants who were relocated were not provided with comparable housing or access to clean water. No evidence in this regard has been provided. The allegation must

accordingly be refuted. Any finding and proposed remedial action based on this is therefore flawed.

6.1.205 As indicated above, services were provided. The CoCT would not relocate persons to a site without providing basic municipal services. There are no records of separate services provided specifically to these families prior to their relocation. All existing communal facilities are nonetheless within short walking distance from the relocation site as well, so no additional standpipe was added.

6.1.206 Five families were relocated, hence the additional toilet provided. SST has been provided with a total of 35 chemical toilets, 281 flush toilets and 143 taps. This equates to a ratio of 1:8,5 for toilets (due to space availability and density constraints; other social issues such as repeated vandalism of the infrastructure are also of concern) and a ratio of 1:19 for taps.

6.1.207 It should be noted that the GIS data on infrastructure may not be 100% accurate as some of CoCT's GPS data collected for new installations have been corrupted for FY21-22 & FY22-23 and files are not recoverable. CoCT is also unable to account for standpipes and toilets that are not operational under the urgency circumstances required due to theft or in need of repair within the data. This will be resolved when the asset verification project is completed and which is schedule for the next financial year (2025/26).

6.1.208 There is currently no sewer infrastructure in many parts of the informal portion of Charles Mukwena Street. There is thus no direct sewage spillage, but rather an influx of greywater from the nearby informal settlement next to Jaftha Masemola road that would at times remain stagnant on the road.

6.1.209 Manhole covers are sometimes stolen or removed by the residents for unknown reasons. It is also possible that manholes could break from excessive

road traffic or vandalism, these missing manholes covers are replaced on an ad-hoc basis, as and when notifications are created.

6.1.210 The 300mm sewer mainline in Johnson Ngwevela Street previously experienced regular blockages in 2021/22 due to sand and debris that kept on clogging up the pipeline. These are caused by blockages and illegal connections mentioned earlier. The CoCT had to obtain bucket machines through a term-tender to clean the pipeline to reduce blockages. These efforts were successful and resulted in this pipeline flowing effectively. The CoCT no longer experienced frequent blockages in the mainline but random blockages which are mostly confined in sewer connections. This pipeline is being monitored by the area team. The CoCT encourages residents to log service requests via the numerous platforms available when sewer blockages are encountered.

6.1.211 The sewer spillages in Moses Mabhida Street (Zone 25) were because of sewer collapse in Zone 20 situated underneath illegal informal dwellings. These dwellings had to be relocated before remedial work was possible. After years of struggling with the community to relocate the informal dwellings to access the pipe, the structures were eventually removed in November 2024. The CoCT immediately assigned an internal team to repair the pipeline which was done successfully by early December 2024.

6.1.212 The CoCT is currently dealing with consequential blockages and has so far removed a lot of debris, foreign articles and sand. If residents still experience blockages, they are required to log customer service request (C3) for the CoCT teams to address the blockage.

6.1.213 Water Pollution Control is currently actively working in this area. This is with respect an inaccurate assumption that the CoCT failed to adequately maintain

the sewer infrastructure. The information set out herein above clearly highlight the challenges, efforts and plans to be undertaken to resolve the issues complained of. These are ongoing and clearly refute the allegations.

6.1.214 As stated earlier, 60% of C3's logged in Khayelitsha are due to foreign objects, fats and rags. Sand also enters the sewer system where illegal connections are made. These are beyond CoCT's control. Sewer blockages are attended to, as and when reported as indicated through C3 notifications. The reoccurring nature of the blockages however is a challenge due to incorrect use of the sewer system in the area.

6.1.215 The occupants refused to relocate in order to permit the CoCT to effect the necessary repairs and maintenance. Despite this acknowledgement, the team rather unfairly attributes failing to repair the sewer to CoCT and proposes adverse findings and remedial action against CoCT.

6.1.216 Section 27 does not provide that everyone has the right to water. Rather it prescribes that everyone has the right of access to water and access to sanitation services. The allegation that municipalities must provide water and sanitation and any adverse findings and proposed remedial action which follow is therefore flawed. The allegation therefore unfairly places a greater obligation on the CoCT than required of it by the Constitution itself.

6.1.217 When it comes to providing access to water and sanitation services in informal settlements, subject to available resources and constraints, the CoCT strives to provide a minimum number of toilets and taps per household, in accordance with National Norms and Standards and the Water Services Act, to ensure that communities have access to water and sanitation services. It is submitted that reasonable legislative and other measures within available resources are

being taken to provide basic access to water and sanitation services in accordance with constitutional imperatives.

6.1.218 Section 27(1) (b) of the Constitution of the Republic of South Africa, 1996, provides a constitutional mandate that *'everyone has the right to have access to sufficient water.'* Additionally, Section 27(2) imposes a duty on the state to take reasonable legislative and other measures, within its available resources, to progressively realize this right. The Water Services Act, 1997 (Act No. 108 of 1997) reinforces this constitutional right by establishing the right of access to basic water supply and sanitation services.

6.1.219 Section 3(1) states that *'everyone has a right of access to basic water supply and basic sanitation.'* Furthermore, Section 11 places a direct obligation on water services authorities, such as the Cape Town Metropolitan Municipality, to ensure that water services are provided in an efficient, equitable, and sustainable manner.

6.1.220 In addition, the Municipal Systems Act requires municipalities to structure their administration, budgeting, and planning processes to prioritise the basic needs of the community in a financially and environmentally sustainable manner (Section 4(2)(d) read with Section 73(1)(a)).

6.1.221 As the designated Water Services Authority, the CoCT balances its obligation to provide free basic water with financial sustainability in order to maintain services for all users while prioritising vulnerable communities.

6.1.222 In accordance with its Tariff Policy and Credit Control and Debt Collection Policy, CoCT provides indigent benefits to support those in need. This includes:

(a) A blanket approach, where households with properties valued at R500, 000 or less (based on municipal valuation) are deemed indigent.

(b) A targeted approach, where households with a total monthly income of R7, 500 or less are registered as indigent based on their applications.

(c) Eligible indigent households receive up to 15,000 litres (15 kilolitres) of free water per month, which significantly exceeds the national Free Basic Water Policy minimum requirement of 6,000 litres (6 kilolitres) per month.

6.1.223 This is one of the most generous free basic water allocations in South Africa, demonstrating the CoCT's commitment to ensuring equitable access to basic services. It is therefore incorrect that every household is entitled to 6000 litres free water per month. Only eligible households qualify, and where they do qualify, they receive 2.5 times more than the minimum allocation.

6.1.224 As a result of the occupants failing to move, the CoCT was unable to repair the sewer line. Furthermore, the Public Protector, as well as the South African Human Rights Commission intervenes when the CoCT does try to enforce its Bylaws and protect its property and infrastructure when land grabs were and are underway. As much as CoCT does protect its property, land grabs are unfortunately a common practice in many communities.

6.1.225 The CoCT does not only rely on reporting by the residents. The CoCT's own staff also report. The CoCT's Environmental Health Department for instance monitors and reports on health nuisances and escalates matters where need be. Without setting out and establishing the rule or requirement that prohibits the CoCT from relying on the public reporting their needs for services or to lodge complaints, the PPSA implies/establishes a rule that the CoCT is not permitted to rely on members of the public to report faults.

6.1.226 Members of the public are the CoCT's eyes and ears and form the corner stone of service delivery. Without the check and balance, services would fail. Without the residents themselves reporting the issues, the CoCT would be unaware of what the residents needs/requirements are, and therefore not be able to serve the residents. There can respectfully be no breach of any rule or standard if no rule or standard in that regard exists.

6.1.227 Despite the Notice indicating at the outset that the investigation is based on a factual enquiry, it respectfully fails to consider all/relevant evidence presented by the CoCT despite the CoCT being an implicated party; makes several subjective observations without presenting evidence in that regard.

6.1.228 The CoCT has been consistently advised by the PPSA that in the absence of evidence, the CoCT's version of events cannot be considered as given an opportunity to be heard and/or to present its case.

6.1.229 Fails to consider evidence presented by Legal Services during the course of the investigation; has taken more than twenty four (24) months to address the CoCT's response in the Langa Flats and Khayelitsha Township matter but only permits CoCT seven (07) working days to address the ninety five (95) page Notice which encompasses a plethora of issues in what appears to be four (04) different investigations, spanning across some eleven (11) Departments, the Executive Mayor's Office and requiring feedback/engagements with approximately fifty five (55) different people if not more; reflects a number of site inspections that were undertaken to obtain progress reports from residents spanning at least twenty four (24) months, yet does not afford the CoCT, through its Legal Services department the same courtesy, despite Legal Services having made a number of efforts to establish the status of the investigation.

6.1.230 Does not consider the extent and efforts that the CoCT has made to ensure service delivery, especially over the last two (02) or more years (since additional information or progress reports were not requested), nor does it consider the number of C3 notifications that were attended to, nor does it consider the primary reason why sewers are blocked/overflowing.

6.1.231 Despite having further engagements with residents for progress updates, as recent as January 2025, the investigation fails to afford the CoCT 's Legal Service the same courtesy. Had Legal Services been consulted or had the investigation team been advised in good faith by the residents that were consulted, the investigation would have been informed that the sewer system over which residents resided in Langa had been repaired in early December 2024.

6.1.232 While it is averred that the CoCT is not exempted from engaging with the residents and repairing the sewer system, the Notice respectfully fails to acknowledge that the CoCT constantly does so, and that the damage to the sewer system is on account of the residents themselves dumping foreign objects and making illegal connections which consistently cause the blockages complained of.

6.1.233 The standard against which the CoCT ought to be measured against is one which acknowledges that challenges will prevail, infrastructure will break and will need to be mended. This is regrettably the standard which the CoCT appears to be held to account to. That standard is however not the standard for the provision of basic municipal services. In this regard, section 73(1)(c) of the Municipal Systems Act requires that a Municipality must give effect to the Constitution and – *'ensure that all members of the local community have access to at least the minimum level of basic municipal services.'* (own emphasis).

6.1.234 The CoCT acknowledges that there are challenges in rendering and rolling out services, including but not limited to, illegal connections, dumping of foreign objects, fats, rags, hijacking and robbery which put staff and contractor lives at risk. But notwithstanding those challenges, the CoCT persists in rolling out those services to provide basic services in accordance with its constitutional mandate. This is evident from the number of notifications and efforts provided herein above, the reports attached to the CoCT 's response, the number of skips emptied, and trash collected, and the number of EPWP staff that are employed to render services.

6.1.235 While there are currently two projects earmarked in Khayelitsha, these have however been turned down by contractors. Multiple pipe replacement projects have been undertaken in the past five (05) years within the area. These projects were advertised but unfortunately declined by contractors, due to safety and security concerns.

6.1.236 Winter and summer readiness projects are in place, where proactive cleaning, and CCTV investigations are implemented strategically. Pipe replacements are then initiated based on the findings of this investigation in conjunction with data and locations obtained from C3 data, master planning, the planning for small scale residential units, pipe replacement & pipe assessment studies and reports. These processes are taking place and are updated on a continual basis.

6.1.237 The proposed remedial action is moot since there are already various reporting mechanisms. Furthermore, while the submission of notifications should not be data intensive, the local ward councillors have in any event themselves been assisting the communities to log and update notifications.

General/Overall

6.1.238 The Notice attempts to recognize that local government holds constitutional authority to govern independently, within its financial and administrative capacity and with due consideration of practical realities. However, it glaringly fails to account for the CoCT's constrained financial and administrative capacity or the practical challenges that hinder its ability to deliver improved services in a manner that is both financially and environmentally sustainable. These challenges include, but are not limited to:

(a) Budget constraints and/or unplanned expenses arising as imposed requirements from investigation findings;
(b) staff movements and departures from CoCT's employ;
(c) the causes of blockages in sewer infrastructure;
(d) inaccessibility to sewer infrastructure on account of illegal occupation, the community failing to move, and the refusal by receiving communities and taxis to allow illegal occupants to relocate;
(e) mandate, to the extent that obligations rest with Eskom, SAPS, the Minister, and other relevant entities, and are therefore outside CoCT's mandate and/or jurisdiction;
(f) extensive and ongoing education and awareness campaigns and efforts;
(g) limited housing budget, as well as funding dependencies on National and Provincial Government which result in extensive funding shortfalls;
(h) the practical consideration of employing a single individual to clean at an alleged cost of R70 500 with no invoice or receipt provided as supporting evidence.

6.1.239 The Notice neglects to recognise that, despite the significant challenges faced by the CoCT, it remains committed to ensuring that communities have access to a minimum level of basic services. This is achieved through the provision of

necessary infrastructure (notwithstanding that the infrastructure is vandalized, stolen, broken, blocked with foreign objects or have illegal connections), providing access to water and sanitation services, as well by providing the necessary waste management services, and related education.

6.1.240 Although housing is not the CoCT's primary function, it undertakes significant efforts to provide access to housing within a severely underfunded environment. These efforts underscore the CoCT's commitment and dedication to addressing community needs despite the substantial challenges it faces.

6.1.241 Despite the CoCT implementing measures in compliance with the provisions of section 73(2) above, it appears these efforts are deemed insufficient by the PPSA. It must, however, be strongly emphasised that the CoCT is being held to an unjustifiably higher standard than is required of it. Moreover, many of the issues raised are national concerns that demand intervention and resolution at a broader and higher governmental level. These are not matters for which the CoCT can, or should, bear responsibility. Holding the CoCT accountable for such issues is neither reasonable nor appropriate.

6.1.242 While the Notice alleges a lack of maintenance of road infrastructure, it simultaneously acknowledges that potholes and sinkholes observed or reported were promptly repaired. This constitutes a clear admission that maintenance does, in fact, occur. Consequently, the allegation of neglect in maintaining road infrastructure is entirely without merit, based on the Notice's own account.

6.1.243 The CoCT also deem it prudent to note information that was not considered by the investigation, in particular, the Urban Mobility: Roads Infrastructure Management Presentation. The presentation contained sufficient information

on challenges and concerns such as forced work stoppage and community disruptions, by members of the community themselves, armed robbery, intimidation, extortion, local labour issues, EPWP-related challenges, proximity of standpipes, decanting of grey water on the road surface, raw sewerage on account of illegal dumping, amongst others.

6.1.244 Other important information that was ignored include the various maintenance schedules and statuses, as well as education and awareness efforts relative to illegal dumping. These are also considered to have an impact on, and/or limit the CoCT's financial and administrative capacity, and/or are practical considerations and challenges which prevent CoCT from delivering better services in a financially and environmentally sustainably manner.

6.1.245 Section 7 of the Constitution enshrines the rights of all people, not the Constitution generally as incorrectly noted in paragraph 6.1.153 of the Notice. Although paragraph 6.1.153 of the Notice indicates that the *'Constitution further stipulates that municipalities have the mandate, within its available resources, to ensure an uninterrupted supply of basic services such as water, electricity, roads, schools and health care services,'* it does not provide a reference for the narrative presented. It is however respectfully submitted that this is not what the Constitution states or envisages. 'Basic Services' is also not defined in the Constitution.

6.1.246 Local government's mandate is limited to the matters listed in Part B of Schedules 4 and 5 of the Constitution. While it is the Bill of Rights which enshrines the rights of all people, even the rights referred to in the Bill of Rights may be limited by *'law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors'* as

indicated in Section 36 of the Constitution. Neither does the Constitution state, nor does it contemplate or imply an *uninterrupted supply* of basic services.

6.1.247 'Roads' are not listed in the Bill of Rights. It stands to reason that if a right enshrined in the Bill of Rights may be limited, any other right may be limited too, even if it were a right to basic services.

6.1.248 Paragraph 6.1.154 of the Notice correctly points out that section 152(1)(b) of the Constitution provides that local government must ensure the provision of services to communities in a sustainable manner. Section 152(2) of the Constitution takes this further by also indicating that the municipality must strive to do so, within its financial and administrative capacity. Since these are indicative of circumstances in which a municipality may be 'exempt'/'excused' from doing so, it follows that there are circumstances where a municipality may be excused from providing basic municipal services and uninterrupted supply of basic services could therefore never have been contemplated by the Constitution or any other law for that matter.

6.1.249 While the Municipal Systems Act defines "Basic Municipal Services," the definition does not extend to include "roads." Furthermore, the Constitution explicitly allows for the limitation of rights enshrined in the Bill of Rights, making it inconceivable that the provision of basic services cannot be subject to such limitations. The Notice itself acknowledges that potholes and sinkholes were repaired, yet it fails to recognise the maintenance schedules and challenges presented by the CoCT and any allegation that the CoCT has failed in its obligation to maintain road infrastructure are therefore baseless and cannot be sustained.

6.1.250 It is entirely incorrect to assert that an agreement of lease for a fixed-term period grants a lessee the right to remain on the property indefinitely,

particularly once the lease term has expired. There is no automatic entitlement to lease renewal following the conclusion of its term. Furthermore, security of tenure does not guarantee a lessee continuity, the ability to renegotiate the terms of a new lease, or immunity from eviction in the absence of legitimate grounds. Such misconceptions are entirely unfounded, lacking any legal justification or basis, and must be categorically dismissed.

6.1.251 The terms of the existing lease would determine the opportunity or terms to negotiate the renewal of a lease. Beyond the term agreed upon by the parties to the initial lease, a lessee would have no automatic right to continue tenancy after his/her lease has expired. Beyond this period, the lessee would be an illegal occupant.

6.1.252 A *usufruct* on the other hand would afford/provide the holder of the right to use the property of another person and consume, alienate or take any fruits that come from the property itself or anything that may be ancillary to the property. A lifelong usufruct expires on the death of the usufructuary, but can be granted for a fixed term, in which case the property owner cannot do anything that infringes on the usufructuary's rights.

6.1.253 Although 6.1.173-4 refers to section 26(3) of the Constitution, it fails to consider sections 26(1) and 26(2) of the Constitution. Section 26 of the Constitution does not stipulate, imply, or is otherwise *'designed to ensure the realisation of this right of protection under section 26(3), to limit homelessness by respecting, protecting, promoting and fulfilling the right to access to housing.'* It was also not *'enacted, amongst other things, to improve the conditions of occupiers of premises and to afford them substantive protections and remedies in instances of a violation of this right.'* The allegation is incorrect. As per section 26(1), the Constitution is designed to ensure that everyone has *access* to adequate housing.

6.1.254 Lease agreements, by contrast, are designed to document the terms and conditions between parties to a contract for housing. Claassen's Dictionary of Legal Words and Phrases defines a lease as: *'… an agreement, binding in law, whereby A, called the lessor, agrees with B, called the lessee, to allow B to have the use of movable or immovable things for a fixed or fixable period or periods against the payment by B of a fixed or fixable amount of money called the rent. See Wille's Principles of South African Law 6ed 407 and Kerr the Law of Lease 1; Montelindo . . . etc, v Bank of Lisbon and SA Ltd 1969 2 SA 127 (W).'*1 Per Lexis Nexis – 7 April 2025.

6.1.255 Furthermore, the PIE Act is what would afford a tenant, or illegal occupant, protection from arbitrary eviction, not section 26(3) of the Constitution or the lease agreement.

6.1.256 Concerted efforts are made to educate the public on the effects of illegal sewer connections, illegal dumping and foreign objects in drains. These are evident from CoCT's previous and current response. However, the fact that the blockages and sewer overflows are consistent recurrences are an indication that the community themselves are not taking steps to prevent the very blockages and overflows complained of, despite being educated on the repercussions thereof. These are respectfully beyond CoCT's control.

6.1.257 Notwithstanding the above, the fact that the blockages, sewer overflows and refuse is being cleared, is evidence of the fact the basic level of municipal services are being delivered, and that services are working. As indicated, the challenge is the constant littering, and dumping of foreign objects, fats and rags into the sewer network which in turn cause the repeated blockages.

6.1.258 Considering the above, it is undeniably clear that the CoCT has implemented substantial and progressive measures to deliver basic municipal services to

the residents of Langa Flats and Khayelitsha Township, fully adhering to the Constitution and legal prescripts. In stark contrast, the investigation disregards these consistent and deliberate efforts to address service delivery challenges, offering a fundamentally incomplete and flawed narrative.

6.1.259 *'In this investigation, the rights impeded are amongst others, the right to human dignity, the right to be free from all forms of violence from either public or private sources, the right to an environment that is not harmful to health or wellbeing, the right to access to adequate housing, the right of access to health care services and water.'* (writer's emphasis added; footnotes omitted).

6.1.260 The Notice unequivocally stipulates that these rights were impeded as a foregone conclusion, disregarding the necessity of a factual assessment. Furthermore, it fails to establish how these rights were impeded in practice or in accordance with legal standards. This approach undermines the integrity and fairness of the investigative process, rendering its findings speculative, unsubstantiated, and inherently flawed.

6.1.261 In conclusion the CoCT stated that it is the CoCT's view that the allegations and findings have no merit and/or are unsubstantiated, there is no violation for reasons mentioned above. Consequently, any proposed remedial action is also moot and/or overreaching and/or flawed, and/or not possible and/or practicable for the CoCT and/or Municipal Manager to implement. Similarly, we respectfully submit that there would be no basis for any remedial action to be taken by the MEC for COGTA, the Executive Mayor, Speaker or Council.

Request for additional information and evidence to the Notice

6.1.262 The Investigation Team issued a follow-up letter to the CoCT dated 23 May 2025, requesting the CoCT explain certain aspects in its response to the Notice

and provide further evidence on some issues that were said to be done later in the financial year.

6.1.263 A response was received from Ms Sayed on 19 June 2025, stating amongst others that:

6.1.263.1 The CoCT does not intend to respond to each and every aspect of, or allegation contained in the aforesaid follow up letter and failure to do so should not be construed as an admission of any liability. It reserves the right to supplement and/or amend the response should same be necessitated, especially since it was not afforded a reasonable opportunity to address the 95-page Notice under the truncated timeframe provided;

6.1.263.2 The CCTV cameras are purchased from the Department's capital budget. Capital project/purchases are planned a year in advance. In the financial year (2024/25) there were no capital funds available for CCTV cameras. The Department does, however, understand the critical need to install CCTV cameras, and has planned to procure CCTV cameras in the following three (03) financial years as follows:

(a) 2026/2027 – Eastridge Clinic;
(b) 2027/2028– Westridge Clinic; and
(c) 2028/2029– Rocklands Clinic.

6.1.263.3 The CCTV needs/requirements will therefore be assessed/considered at that stage (relevant financial year) based on the budget that has eventually been approved for that relevant financial year. The Department is able to plan ahead, however, implementation is dependent on the budget that is eventually approved;

6.1.263.4 The Occupational Health and Safety (OHS') units from Community Services and Health and Facilities Management departments undertook to review the emergency exits in April 2025, they were unable to do so due to the high number of public holidays in April and other competing priorities which include general Emergency Management Plan (EMP) reviews in other areas. The Departments have, however, rescheduled visits with all role players to these facilities for 24 June 2025, for a follow-up and will supply a further update in terms of the status of the remedial actions taken to address concerns highlighted should it be required;

6.1.263.5 The execution of the renovations/ upgrades to Matthew Goniwe Clinic is scheduled for the 2025/26 financial year. The Department is still waiting for the outcome of the CoCT 's budget approval;

6.1.263.6 The stage 1 to 4 planning, detailed costing and architectural plans have been completed at Matthew Goniwe Clinic. The Department has funds to execute Mathew Goniwe's upgrade and roof replacement in 2025/26 financial year, but the contractor can only be appointed in July when the new financial year starts. Town Two's Upgrade and roof replacement will only be executed in the 2026/27 financial year when more funds become available;

6.1.263.7 The smoke detectors can only be fitted when the roof has been replaced, and the ceiling is repaired. The smoke detectors will be installed in Mathew Goniwe as part of the renovation in the financial year 2025/26 and only be installed at Town Two when the roof is replaced in the 2026/27 financial year;

6.1.263.8 The department's current management is picking up the pieces and attempting to establish the status of many matters within the department and/or resolve outstanding issues;

6.1.263.9 Efforts to meet with councillors since then have not materialised despite line departments' requests. The last meeting scheduled for 25 March 2025 did not happen. The official in question was also unable to locate emails of her efforts in that regard;

6.1.263.10 Tender 185C/2021/22 expired on 30 June 2025. The replacement tender (093C/2023/24) was awarded on 25 March 2025 and comes into operation on 01 July 2025 and will be utilised for the Conditional Assessment and Rental Survey, which in turn would inform the next five years' Asset Management Implementation Plan, as well as update the CoCT records as to who is living in the rental units. It has become apparent that no new survey was completed under the previous leadership;

6.1.263.11 The survey is regrettably still to be undertaken by the Langa office. Ward councillor engagement is regrettably also still to be undertaken in terms of planning for the survey. The team has not been able to meet with the ward councillor to finalise the planning of the survey as this will, amongst others, require resources and funding for overtime as it will need to be conducted over weekends. At this point funding has been identified;

6.1.263.12 It is deemed prudent to note that this investigation is taking place at a time when the Department is under new management and finding its feet. It also comes at a time when the CoCT's financial year-end processes are underway and consume a significant portion of staff time;

6.1.263.13 The service provider under the current contract has cited security concerns as reasons for being unable to undertake the assessment as initially planned. This tender expires on 30 June 2025 but will be replaced effective 01 July 2025. The replacement tender will therefore be used to attempt the assessment and attend to any required repairs;

6.1.263.14 The professional service provider was unable to undertake an assessment of the cracks as yet as they did not have the capacity to do so, and on account of the focus on the completion of the 2024/25 capital implementation programme that has been the main priority;

6.1.263.15 Seven structures/families from Zone 20 where the collapsed sewer had to be repaired were relocated to an open space in Zone 23. Each structure owner was assisted with 2 x relocation kits to rebuild; and

6.1.263.16 It states further that staff is willing to engage with the Investigation Team but requests to be provided with a list of questions that would form the focus of the engagement for officials to prepare for the meeting/site inspection, and advise which officials will be meeting with, and were. The CoCT further requested that potential follow up inspections be communicated in advance, and with a measure of flexibility on potential days, to facilitate planning and those prior commitments. The CoCT stated that it is a view that its correspondence sufficiently addressed concerns raised by the Investigation Team and would obviate the need to meet.

Joint inspection in loco by the Investigation Team and the CoCT Officials

6.1.264 A joint *inspection in loco* was conducted by the Investigation Team and functionaries of the CoCT on 03 July 2025 focusing on five clinics managed by the CoCT namely, Eastridge, Westridge, Rockland, Mathew Goniwe and Town Two included SST-Marikana in Khayelitsha, Langa Flats and Langa Zone 20.

6.1.265 During the *inspection in loco* at the five clinics, the following observations were made:

Eastridge Clinic

6.1.265.1 Smoke/fire detectors are installed in the record room and were upgraded in March 2025 which included installation of a heat detector, fire sheet emergency blanket and alarm sirens;

6.1.265.2 There is an inverter connected to all the plugs serving as an alternative power source. The inventor was installed a year ago (2024), under asset no: H41817;

6.1.265.3 The building consists of two emergency exit doors, one at the back and one in front and the exit doors are in good state, but the exit sign for the back door should be rectified as it does not correctly indicate the exit direction;

6.1.265.4 There are no CCTV cameras, however, the CoCT officials who were part of the joint inspection in *loco* advised that there is a tender process in progress to procure CCTV cameras, and installation in anticipated to take place soon before end of July 2025, and the installation will commence at Westridge clinic;

6.1.265.5 No renovations were observed. There is a need to repair the leaking roof at the reception area;

6.1.265.6 The Fire extinguishers expired in January 2025. The CoCT official present advised that an initial request was made in January 2025 and a follow up in April 2025. It was further stated that a tender process has been initiated for new fire extinguishers. The Investigation Team was not provided with the date for the installation of the new fire extinguishers. The clinic has one Hose Rail located in the passage near the reception area;

6.1.265.7 There are currently two (02) security officers. The investigation Team was informed that all the employees have portable panic buttons which are connected to the Law Enforcement of the CoCT; and

6.1.265.8 The Elula Patient ICT Project on Patient file information is currently being piloted at St Vincent, clinic. The Manager could not give an indication as to when it will be rolled out to Eastridge.

Rockland Clinic

6.1.265.9 The Investigation Team was advised that all the staff members have portable panic buttons linked to CoCT Law Enforcement. The clinic is spacious and seems to be in good condition, unlike other clinics it also caters for mental health patients. The Investigation Team was further advised that all vacant posts have been filled. It was further stated that there is currently a tender process for the installation of the CCTV cameras and the installation of the cameras might start in Westridge during this month of July 2025;

6.1.265.10 Smoke/fire detectors were upgraded in the record room, (model 2X-A-F2) during March 2025 which also included installation of a heat detector, fire sheet emergency blanket and alarm sirens;

6.1.265.11 The clinic received a generator from the CoCT on 02 July 2025 (asset number E66514);

6.1.265.12 There are two (02) emergency exit doors and exit signs are correctly placed. There is currently no CCTV cameras installed and the Investigation Team was advised that they may be installed by the end of July 2025. There are currently no renovations or repairs taking place at the clinic;

6.1.265.13 The Fire extinguishers were serviced in May 2025, still in order and there is one Security officer in the entrance door;

6.1.265.14 The Elula Patient ICT Project is still in pilot stage and said to have started being piloted at St Vincent Palot Clinic;

Mathew Goniwe Clinic

6.1.265.15 This is a very small old clinic and the record room is packed to capacity with no space available. Records are not properly packed, some records have been moved to another room which is also getting full. There is a roof leak in the waiting area and some of the water taps in the public toilets are broken. According to the clinic Manager it has become a norm that the clinic stays without electricity for two – three weeks. There is currently no electricity supply and Eskom was notified of this problem two weeks back. An inspection was conducted by Eskom on 03 July 2025, and they advised they are attending to the matter. There is a generator placed outside (barcode H45716);

6.1.265.16 There are no fire/smoke detectors in clinic. The Investigation Team was advised that there are plans for renovating / extending the clinic and the construction will start in October 2025 and it will include the installation of fire/smoke detectors;

6.1.265.17 There is one emergency exit door at the back of the building, but there are no exit signs on the walls/ceiling showing where the exits are. There are no CCTV cameras, and the Investigation Team was advised that they will be installed upon completion of the renovations. There are panic buttons in consultation rooms;

6.1.265.18 There are five fire extinguishers due to expire on 30 August 2025.The clinic does not have a fire hose rail. Clinic Manager advises that he ensures that a hose rail is installed before the commencement of the renovations. The clinic is manned by two (02) Security offices during the day and two (02) during the night;

6.1.265.19 The Elula Patient ICT Project is still in pilot stage, said to have started as stated at St Vincent Palotti Clinic;

Westridge clinic

6.1.265.20 Smoke/fire detectors are installed in the record room and were upgraded in March 2025 which included installation of a heat detector, fire sheet emergency blanket and alarm sirens;

6.1.265.21 There is a generator, Asset No: E66513, which was received from CoCT in May 2025. The generator is not equipped, and the Clinic Manager was unable to confirm whether it's working or not because it has never been used;

6.1.265.22 The building consists of three (03) emergency doors and emergency exit signs are correctly indicating where the emergency door is;

6.1.265.23 There are no CCTV cameras. Investigation Team was advised that they will commence the installation of the cameras in all the clinics in July 2025;

6.1.265.24 No renovations are taking place. There are four fire extinguishers, and they expired in January 2025. An initial request to renew the fire extinguishers was made by the Clinic in January 2025 and a follow up in April 2025. There is one Hose Rail located in the passage near the toilets. There are currently two (02) security officers;

6.1.265.25 The Elula Patient ICT Project is currently being piloted at St Vincent, the clinic Manager could not give an indication as to when will it be installed at Westridge;

Town Two Clinic

6.1.265.26 No smoke/fire detectors installed in the clinic. It has been submitted by the CoCT in its response that the clinic is planned for major upgrade and therefore fire/smoke detectors will be placed once upgrade is complete. However, this is a fairly newly built clinic wherein the issue of fire/smoke detectors should have been factored in during construction. The clinic has serviced fire extinguishers and fire hose are also functional. Even though these can be alternative to fire/smoke detectors, they are dependent on human intervention. If a fire breaks out during the night they may not be useful because the clinic doors are often locked for security reasons, while in the case of automated fire/smoke detectors, they detect the smoke and alarms/sirens to alert of the fire in the building;

6.1.265.27 The clinic has a static generator which has been recently repaired. Emergency exists are clearly marked. The clinic is user friendly, and medication/pharmacy section is locked;

6.1.265.28 The clinic has nonfunctional CCTV camera lens. The Investigation Team was advised that the monitor was vandalised and as soon as the clinic undergoes the planned renovations, the CCTV cameras will be assessed for their functionality;

6.1.265.29 There were no renovations taking place at this stage, although the CoCT stated that the approval for the contract is at an advanced stage;

6.1.265.30 There are six (06) security personnel, three during the day and three (03) during the night, assisted by a guard dog; and

6.1.265.31 Elula Patient ICT Project, phase 1 of the project has been implemented in the pharmacy section of the clinic. Manual files are still used to record patient information and once the project is complete all patient history information will be atomically accessible.

SST-Marikana in Khayelitsha

6.1.266 During the *inspection in loco* at SST-Marikana in Khayelitsha the following observations were made:

6.1.266.1 There were portable ablutions in the area. There was no visible water supply in the area, or water taps installation or any water delivery infrastructure having been installed in the area. It was also observed that there were no skip bins for residents to dump rubbish.

Langa Flats and Langa Zone 20

6.1.267 During the *inspection in loco* at Langa Flats and Langa Zone 20 the following was observed:

6.1.267.1 Fire hose reels where still not repaired or replaced. The housing units still have cracked walls and staircases. The sewer at J1 and J3 flats is still spilling although there are visible signs of the place having been previously attended to. The cleanliness of the common areas is still an issue as it did not appear that there were dedicated personnel or service providers cleaning the place;

6.1.267.2 The main sewer line that had been in bad condition for the past 14 years in

Langa Zone 20 has been repaired and the problem of sewer blockages is manageable; and

6.1.267.3 The Ward Councillor who was present during the inspection *in loco* at Zone 20 also confirmed that he is now relieved that the major problem of the collapsed sewer line has been attended to, save for regular blockages, that are attended to by the CoCT. The Councillor raised concerns about infrastructure vandalism and security threats to the CoCT officials who are dispatched to work in the area.

6.1.267.4 It is his further submission that even contracted service providers are prevented from doing work in the area by the community members contending that the work should be given to them to do rather than being given to a contractor outside of their area who often bring along workers to do the work.

Additional submission received from CoCT

6.1.268 Following the joint *inspection in loco* by the Investigation Team and functionaries of the CoCT conducted on 03 July 2025, additional responses were received from the CoCT dated 11 August 2025 reiterating its previously responses of 14 November 2024, 11 April and 19 June 2025 and adding that:

City Health Facilities- Town Two and Mathew Goniwe clinics

6.1.268.1 The CoCT conceded that there are no smoke detectors at Town Two and Mathew Goniwe clinics, however, it held that there are fire extinguishers at all health care facilities which are being serviced annually and that due to planned renovations at these clinics, installation of smoke detectors before renovations are complete would amount to fruitless and wasteful expenditure

if the procurement and installation thereof is done now.

6.1.268.2 Town Two's upgrade and roof replacement will only be executed in the 2026/27 financial year when more funds become available;

Emergency Exit Signs

6.1.268.3 The CoCT advised that a New signage Tender - 068G/2022/23 (Assessment, Supply, Delivery and Installation of Internal, Directional and Symbolic/Safety Signage for any Council Facility within the boundaries of Cape Town) commenced on 01 July 2025;

Security

6.1.268.4 The CoCT reiterated its previous response of 11 April 2025 to the notice that the CCTV cameras at Town Two and Matthew Goniwe clinics, were vandalized and these will be attended to after the planned renovations are completed, and absence of CCTV does not hamper access to health care services. The premises are however patrolled by three security guards during the daytime and three at night. Perimeter checks are done with a guard dog;

Roof leaks-Eastridge Clinic's, Rocklands Clinic

6.1.268.5 The CoCT stated that the repairs will be done in terms of Tender 034Q/2021/22 (Term Tender for the maintenance, redecoration, alterations and additions to conventional and heritage buildings and structures). The Facility Management department have been notified and requested to prioritise in this financial year however, no set timeline can be given yet as the roof repair is one of many roof projects to be managed by Facilities Management and therefore is dependent on the requirements of other

required work;

Access to water SST-Marikana

6.1.268.6 Regarding non access to water by SST Marikana informational settlement residents, the CoCT stated that services were provided as it could not relocate persons to a site without providing basic municipal services. According to its asset register, Marikana is part of Silvertown (SST). There are no records of separate services provided specifically to these families prior to the relocation. All existing communal facilities are within short walking distance from the relocation site;

High Mast lights

6.1.268.7 Regarding repairing of the high mast lights, the CoCT submitted that it held a meeting with Eskom on 15 July 2025 in which it was established that there is no access for the crane to enter the informal settlement, due to narrow roads, illegal electricity connections to reach the high mast light number Kha 126 and the fact that an informal trader built an illegal structure around the high mast light number Kha 145*;*

Langa Flats

6.1.268.8 Regarding littering/dumping/skips at Langa Flats, the CoCT submitted that refuse cleaning as well as education campaigns and efforts, as previously mentioned, illegal dumping remains a challenge. Efforts are also undertaken over weekends. Tender 244S/2023/24 (Provision of waste disposal and cleaning of 6 cubic meter and 12 cubic meter waste skips for the City of Cape Town) has been initiated which entails placing waste skips in areas identified as illegal dumping hot spots for the containment of the loose waste;

6.1.268.9 The new Tender (244S/2023/24) was awarded on 31 March 2025. Subsequent to that award, one of the bidders appealed the award. Consequently, the tender could not be utilised until such time as the appeal had been considered. The appeal was only concluded recently. Although the tender was originally scheduled to commence on 01 July 2025, due to the appeal, the new tender will now commence on 01 August 2025;

6.1.268.10 The sewer spillage observed at Block J2 during the *inspection in loco* on 3 July 2025 was attended on 04 July 2025; and

6.1.268.11 The CoCT was in the process of finalising the transversal applications to utilise Tender 278S/2023/24 (Provisions for the service, repair, maintenance and installation of fire extinguishers, hose reels, hydrants, and booster connections for the City of Cape Town) in order to address the vandalised fire equipment observed during the *inspection in loco* of 03 July 2025.

SST Marikana – Town Two inspection in loco

6.1.269 On 27 October 2025, an *inspection in loco* was conducted at SST-Marikana. It was observed that the situation remained unchanged and the collapsed sewer infrastructure has still not been repaired despite the relocation of the affected families, as shown from the images below.

Image 10: Unrepaired site where the sewer pipe collapsed

Image 11: Hole in the floor of one of the resident houses

6.1.270 The residents relocated to Marikana did not have access to water within their immediate vicinity and were reliant on a single portable toilet. The ablution waste is removed once a week.

Image 12: One mobile toilet shared by the relocated residents

6.1.271 The ten (10) families were relocated to an area adjacent to Town Two Clinic which has since been fenced off and the nearest water tap, from which clean

water could be sourced was located approximately one (01) kilometre from the relocation site.

Image 13: Walk to the communal tap

6.1.272 It was further observed that the tap has been removed, and a new informal dwelling has been erected in or near the spot where the tap had been installed. As a result, the affected residents were left with only a pipe providing a minimal trickle of water, inadequate to meet the basic human and sanitation needs.

Image 14: Tap removed and pipe pressed down with a cement block

6.1.273 The Investigation Team also observed that among the relocated residents was

an elderly gentleman who is wheelchair-bound. At the time of the inspection, he was alone at home, as his family members were away at work. The absence of an accessible water supply, coupled with the lack of electricity, has created living conditions that are neither safe nor conducive to his health and well-being, particularly given his physical vulnerability and dependence on basic municipal services.

Meeting between the Investigation team and COCT, 28 October 2025

6.1.274 The Investigation Team held a meeting with the CoCT officials on 28 October 2025. The purpose of the meeting was to seek clarification and obtain evidence demonstrating the progress the CoCT has made in addressing the issues raised at Langa Flats and Khayelitsha townships as well as the interim and long-term plans to address those issues. The officials requested to respond to the Public Protector in writing.

Joint inspection in loco conducted on 13 November 2025

6.1.275 A joint *inspection in loco* was conduct on 13 November 2025 by the Investigation Team with the CoCT and the South African Human Rights Commission.

Image 15: members of the joint inspection team

Image 16: Joint inspection

6.1.276 During the inspection, it was observed that there were a number of vandalised and damaged toilets and taps which raised serious concerns regarding the condition of the infrastructure, as well as the lack of maintenance being conducted on the infrastructure.

Image 17: Vandalised section at the back of the damaged toilets at SST Marikana

Image 18: Blocked drains and leaking taps at communal community areas at SST Marikana

6.1.277 Further to the above it has also been observed that there are 6-7 additional toilets for use by the ten (10) relocated families. It was further observed that additional taps are required and necessary due to the distance of the taps which result in illegal water connections.

6.1.278 An observation was made that the sewer has collapsed at several points as depicted from the images below, however that CoCT is unable to access these areas where collapses occurred as contractors and machinery are unable to access and repair the collapsed sewer line.

Image 19: Hole on the floor of a house located on the collapsed sewer line

Image 20: area where the sewer collapsed

Further progress received from the CoCT, dated 22 December 2025

6.1.279 Further to the above, the CoCT advised that available land has been located and the emergency relocation of SST residents residing over the collapsed sewer is underway. Although initial plans were for the relocations to conclude by 18/19 December 2025, delays occasioned by an impasse with CODETA stalled the progress. This was however resolved on 15 December 2025 and work commenced on site on 16 December 2025.

6.1.280 The CoCT stated that notwithstanding that there are also other community dynamics with the affected SST community as well as the receiving community, the teams were working hard to resolve them before relocations can take place. Onsite security has since been augmented, and teams are on the ground in an effort to ensure relocations take place without incident.

6.1.281 Further to the above a contractor has been appointed to undertake the sewer repair and is expected to be establishing their presence on site during the

course of 18 December 2025. The focus at this point in time will be to contain the overflows until such time that the relocations have been effected to allow the contractor to excavate and repair the compromised sewer line.

Langa inspection in loco

6.1.282 On 09 December 2025, an *inspection in loco* was conducted at Langa and the following were observed:

6.1.282.1 The purpose of the inspection was to establish whether outstanding repairs and maintenance work has been attended to by the CoCT.

6.1.282.2 Langa Informal Area – diagonally opposite Nomonde Playschool. Possibly Moses Mabhida Street. It was observed that a skip was in place for containment of waste. Workers were cleaning the street/s.

6.1.282.3 Langa Flats – Block J2 – Repairs to the sewer blockages were attended to and rodding caps replaced since the last visit in July 2025.

6.1.282.4 Regarding the fire equipment, it was observed that maintenance and repairs was not attended to, but the CoCT confirmed that a transversal tender had been granted. An assessment of the maintenance and the repair work had already been performed by the contractor and work is expected to commence after the builders' holiday in January/ February 2026. The assessment will establish what is required from the contractor.

6.1.282.5 With regard to the cracks, it was observed that repairs were done and daily monitoring taking place, this was evident from the staff who were on site on the day. The CoCT further confirmed that the structural engineer is busy with an assessment, but that initial assessments noted that the cracks do not present

a structural risk.

6.1.282.6 With regard to the cleaning, the CoCT confirmed that EPWP workers were appointed for area cleaning in general and block J2. The workers were to sign contracts on 10 December 2025.

6.1.282.7 With regard to the collapsed sewer pipeline inspected on 09 December 2025, it was expected to be completed and reinstated by 19 December 2025, but the CoCT indicated that the pipe has been repaired and the road reinstatement has been in progress since 18 December 2025.

Additional submission received from CoCT

6.1.283 *Following meetings between the Public Protector, Adv. Kholeka Gcaleka, the Executive Mayor, Public Protector Investigation Team and CoCT officials and the Joint inspection in loco,* a response was received from Mr Zunaid Mohamed, Acting Director: Legal Services dated 02 December 2025, as outlined below:

SST Marikana – sewer collapse and relocation

6.1.284 Work on the sewer infrastructure commenced and pipes have been repaired, according to the CoCT, this is contrary to the allegations and at the site from where the ten (10) families originated once they were relocated next to Town Two Clinic.

6.1.285 However, further progress is hindered by the need to relocate other residents currently residing on the pipeline and before any work can be undertaken, existing families illegally occupying land over the sewer should first be moved, this was confirmed at a joint site inspection on 13 November 2025.

6.1.286 The CoCT's Informal Settlement Management (ISM) Team remains committed in facilitating the relocations but while proposals for relocations are/were made, these proposals were rejected.

6.1.287 During a walk about on 10 November 2025, the community identified a parcel of land for relocation purposes. The land belongs to the Passenger Rail Agency of South Africa (PRASA) and an urgent meeting has been scheduled with PRASA to discuss potential solutions.

6.1.288 The CoCT also approached the Western Cape Provincial Housing Department regarding the adjacent housing project and in an effort to avoid duplication and to ensure that relocating families are not part of that projects by verifying their beneficiary list and for the CoCT to identify overlap and to reduce the total number of affected households if members of the community are beneficiaries of the project.

6.1.289 The CoCT indicated that they were informed that the project has been placed on hold until further notice, but due to the ongoing service delivery challenges the CoCT requested the project to be fast tracked.

6.1.290 The CoCT states that several investigations and efforts to source available land in Khayelitsha and Mfuleni has been without success and at this point identified pockets of land have regrettably been invaded and cannot be utilised for relocating persons located on the collapse sewer line.

6.1.291 According to the CoCT, the ISM Team alongside Ms Lungiswa Ntshuntshe from the Executive Mayor's office have undertaken walkabouts to identify large yards within the settlement for potential subdivision to accommodate affected families.

6.1.292 This process requires coordination and approval from the Ward Councillor Cllr Thando Pimpi, sub-council Manager Cllr Jongihlanga France and community leadership to ensure consensus and smooth implementation, but no suitable available sites could be found at this stage.

SST Marikana - Electricity

6.1.293 The CoCT stated that Eskom engaged the families when they were relocated and that engagements are still underway.

6.1.294 High masts have been repaired, and others are underway and an update of repairs were furnished by the CoCT.

6.1.295 After the initial relocation, the ISM Teams visited the site on 16 May 2024 to finalise and submit the necessary Eskom forms. At that moment, ISM was not asked to provide a DGN design. Throughout the entire process, the ISM Teams have exerted every effort to assist in supplying electricity to the relocated families. They have verified that all pertinent information was communicated to an Eskom representative, Mr Teenage Pitsha, and assert that, to the best of their understanding, no incomplete documentation was submitted.

6.1.296 Before moving the families to their new location, ISM Teams conducted thorough inspections to confirm that no live electrical wires were left exposed. This essential safety precaution was taken to eliminate the possibility of accidental electrocution and to safeguard the health and safety of both the relocated families and the wider community. Exposed live wires pose significant dangers, such as electrical shocks, fires, and damage to infrastructure. To address these risks, ISM collaborated with Eskom to guarantee that all electrical boxes were adequately disconnected prior to the commencement of the relocation process. An official from Eskom was present

throughout the entire operation, from the initial preparations to the final day of relocation, ensuring adherence to all safety protocols and providing technical supervision.

6.1.297 Before an area can be electrified, several key factors must be assessed:

(a) Whether a survey has been completed;
(b) Whether the land is owned by the City or privately held;
(c) Whether the area was legally occupied or unlawfully invaded; and
(d) Whether the site falls within a servitude or designated wetland zone;

6.1.298 In this instance, it has been established that the settlement was unlawfully invaded. Nevertheless, a formal survey has been conducted and forwarded to Eskom for evaluation as part of the electrification consideration process. Up to this point, all necessary documentation, including completed surveys, has been provided to Eskom for their review and decision-making. However, in light of the potential for unrest from the broader community, Eskom is understandably apprehensive and necessitates the community's approval prior to advancing with electrification for the ten (10) families. A meeting with the Ward Councillor and Sub-council 9 Manager was scheduled for Monday, 24 November 2025.

6.1.299 Eskom has committed to supply electricity to the ten (10) families, however, it is concerned about the possibility of protests and unrest from the broader community of Marikana as the rest of Marikana is not scheduled for electrification in the current financial year. Eskom has been in discussions with community leaders to mitigate the risk of any unrest, and the CoCT is providing assistance to the best of its ability.

6.1.300 Moreover, the electrification of the remaining Marikana area must correspond

with the housing project development. However, this initiative is not a CoCT housing project, it is a Provincial housing project, which means it must be further addressed by the Provincial Government and Eskom. Once the community reaches an agreement and consents to the provision of electricity for the 10 families, Eskom has stated that they will move forward.

6.1.301 Currently no minutes available for reference of meetings with Eskom but can be made available should they be found. The CoCT furnished email correspondence from Eskom which confirms their stipulation for community consent prior to supplying electricity to the ten (10) families.

SST Marikana - Access to water and sanitation services

6.1.302 The pipe in question, with the missing tap and no pressure, constitutes an illegal connection and is not included in the CoCT infrastructure. The CoCT sincerely regret and apologize for any inconvenience related to the calculation of distances to taps; however, this information was derived from the available GIS data. After conducting an inspection with the Investigation Team, it has been confirmed that there are six (06) to seven (07) toilets accessible for the use of the ten (10) relocated families, rather than just one. Water and sanitation services are otherwise provided in accordance with National Norms and Standards wherever feasible, based on GIS data rather than estimated distances.

6.1.303 In order for additional taps and toilets to be considered for installation at or near the ten (10) relocated families, a study followed by a site inspection must first be conducted to assess the feasibility of providing a new standpipe. This process will necessitate a new application for a metered connection, along with a new sewer connection. Generally, the entire procedure, which includes the study, capacity analysis of the existing networks, submission of applications

and obtaining approvals, can take up to three (03) months.

6.1.304 However, there are existing concerns regarding the collapsed sewer main in SST Marikana that must be addressed, as the addition of new connections would introduce more flows into the sewer system. This increased flow also implies a higher likelihood of foreign objects causing blockages. Inspections have revealed that the sewers have already collapsed at multiple locations, and these new additions may worsen the challenges faced downstream, which are already under significant strain.

6.1.305 Furthermore, the emergency contractor is currently unable to access and repair the infrastructure due to the encroachment of illegal structures. Discussions with the Reticulation Branch are ongoing to secure the necessary approvals for new taps and toilets, subject to investigations into the feasibility.

6.1.306 Currently, the most effective solution involves the CoCT relocating the families impacted. However, this is subject to the availability of land. While water and sanitation services are being supplied in line with National Norms and Standards wherever feasible, the CoCT is, as mentioned, exploring the possibility of installing extra taps and toilets for the relocated ten (10) families next to the Clinic and has already submitted the necessary applications for this, although the provision is still subject to further investigations.

Unlawful land invasions

6.1.307 The Housing Department, in partnership with the CoCT's Safety and Security Department, has initiated a weekly war room aimed at tackling high-risk projects and vacant land invasions. According to the CoCT this collaborative effort guarantees that clear roles, responsibilities, and guidelines are established to enhance the safeguarding of projects and sites from invasions.

The Safety and Security Department reviews the security specifications for each project, and their recommendations are integrated into the construction tender documents.

6.1.308 Furthermore, court interdicts are proactively sought for high-risk sites and projects to ensure prompt action and legal protection when necessary.

6.1.309 When required, the CoCT has previously pursued applications for interdicts to prevent unlawful occupation concerning properties near the Town Two Clinic, among others, in an effort to protect CoCT property and/or infrastructure. The CoCT indicated that it will not hesitate to undertake similar measures in the future.

6.1.310 Currently, the structures on properties surrounding the Clinic appear to be well-established, and the sole method to address illegal structures and unauthorised occupants would be through eviction proceedings, unless the occupants choose to vacate voluntarily.

6.1.311 The CoCT can solely stop further constructions on any property, or any extensions to current structures, by executing timely counter spoliation actions. Currently, this duty is overseen by the City's Anti-Land Invasion Unit, which performs regular patrols to address illegal occupation.

6.1.312 When attempts are made, counter spoliation is carried out. However, this is not always feasible, despite the CoCT's diligent efforts. As observed during site inspections, community members have become quite resourceful, as ready-made structures are being sold along the roadsides. Once these structures are established and inhabited, counter-spoliation becomes unfeasible, necessitating the CoCT to initiate eviction procedures before illegal occupants can be removed.

6.1.313 A part of this process involves the CoCT providing alternative housing. Frequently, these relocation offers are declined by the illegal occupants, or they lead to complications where the receiving communities are unwilling to accept the families that the CoCT is attempting to relocate.

6.1.314 Part of the ISM department's core function is to manage growth of informal settlements within the CoCT's jurisdiction. In doing so, the department conducts daily patrols of high-risk areas as part of monitoring and minimizing growth of informal settlements.

Housing Projects: re-allocation of funds

6.1.315 This was previously addressed by the CoCT as per correspondence of 07 February 2023, a response letter from Ms Riaana Sayed (Ms Sayed), Director: Legal Services, acting on behalf of the Municipal Manager.

6.1.316 It is regrettably difficult to say at this point where the budget was moved to as mid-year changes or reallocations result in a reprioritization of the USDG base allocation to various projects that are performing well, so the transfer of funds is not necessary a one-to-one match.

6.1.317 In essence, when funds are realigned during the Adjustment or Draft Budget process, they are shifted from projects that are either delayed or have accrued savings to those that necessitate additional funding due to their good performance.

6.1.318 This reallocation process involves adjusting the budgets of all projects within the portfolio to guarantee that the total grant funds are completely balanced within the designated financial year.

6.1.319 These projects are however funded through a grant allocation from the National Department of Human Settlements. If any of the projects experience delays or are unable to proceed (for instance, due to site invasions), the corresponding funds can only be reallocated to other projects that are financed under the same grant, either as part of the adjustment budget process or through a virement.

6.1.320 The funds removed from the projects as indicated above would therefore only have been reallocated to other projects funded under the same grant.

Langa Flats

6.1.321 During the meeting conducted on 11 November 2025 between the Public Protector and the Executive Mayor, the Public Protector acknowledged that if the CoCT decides to pursue the regularisation of the current occupants at the flats, it could lead to large-scale eviction of those occupants who do not qualify for tenancy under current processes.

6.1.322 The CoCT value this acknowledgement, especially since it seems that a significant proportion of occupants would not be eligible for regularisation. At this point, the CoCT can only investigate alternative, innovative methods for regularization. The specifics of these methods remain unclear. If these initiatives do not succeed, the CoCT will be obligated to regularise occupancy in line with the existing policies and procedures.

6.1.323 The Public Housing Department is currently engaged in a regularisation initiative. If this initiative receives approval, it will allow for the regularisation of tenants who currently do not meet the qualifications, according to the new criteria. Subsequently, leases can be formalised with the current non-qualifiers. Information concerning the initiative will be communicated once it is approved

and the required surveys are carried out throughout the CoCT to facilitate its implementation.

6.1.324 The team has attempted to enter into leases with as many lessees as are willing; however, most of those without leases are either unwilling or do not meet the qualifications. In this regard, numerous attempts have been made to secure leases with the remaining occupants, and discussions with councillors have occurred on several occasions, however, attempts to arrange the occupancy surveys with the occupants have been unsuccessful, mainly due to the fact that there are currently many occupants that do not qualify.

6.1.325 With the proposed regularisation initiative, the team is optimistic that the occupants will be more amenable to having the survey conducted and entering into leases with the regularised occupants once the initiative receives approval. If approved, the regularisation initiative will enable the CoCT to enter into leases with occupants who meet its criteria, and this will be communicated to all tenants of the Department, accordingly.

6.1.326 Despite the above, the Public Housing Office has expressed its willingness to engage with the Investigation Team and has stated that a separate meeting prior to engaging with residents on these issues is unnecessary, as matters concerning arrears and rental payments form part of the lease-conclusion process. If lessees require indigent relief, debt write-off where applicable, or payment arrangements, these are discussed with them. Therefore, a meeting or mediation with tenants can be arranged if necessary. However, given the pending initiative, it may be premature to meet at this stage.

Short-term and Long-term plans

SST-Marikana – Collapsed sewer

6.1.327 The short-term rehabilitation strategy for the collapsed sewer pipeline, where applicable, entails undertaking targeted point repairs immediately after the required relocations of affected structures and obstructions have been completed. These repairs will be executed under the Emergency Repairs Framework Contract, enabling the rapid appointment of suitably ranked emergency contractors to restore hydraulic functionality and prevent further surcharge of the network.

6.1.328 The long-term rehabilitation intervention will comprise the structural relining of the existing pipeline using a suitable trenchless technology (e.g., CIPP or slip-lining), which will re-establish the pipe's structural integrity and extend its design service life by an estimated 40–50 years. This method eliminates the need for extensive open-cut excavations, thereby minimising surface disruption, reducing environmental and social impacts, and ensuring continuity of services throughout the rehabilitation process.

6.1.329 Much of the work to be done on the bulk sewer line in SST Marikana is reactive due to the current collapses linked to this pipeline and no further upgrades would be required at this point along the length of the pipeline as sufficient spare capacity exists within this line. The objective of the long-term rehabilitation of the pipeline is to prevent any future collapses and to guarantee that the asset's lifespan (pipeline in this case) is extended well beyond the initial intended design lifespan.

Langa Flats

6.1.330 The CoCT submitted the 2023 draft Sewer Master Plan for Region 4 North as previously submitted with the 11 April 2025 response as undermentioned.

Electricity

6.1.331 As discussed during the meeting with the Public Protector and the Executive Mayor on 11 November 2025, the issues related to electricity are the focus of continuous discussions with Eskom and the Public Protector.

Collaborative Measures with the South African Human Rights Commission

6.1.332 A mediation process under the facilitation of the South African Human Rights Commission (SAHRC) was initiated in March 2025 following allegations by the Leadership from Langa Zones that, *'there was no visible progress in the redevelopment of Langa'*.

6.1.333 The Human Settlements Department under the leadership of the Mayoral Committee Member agreed to participate in the mediation and the agreed focus areas include the following:

(a) Public Housing Programme – inclusive of capital budget priorities (refurbishments) and operational budget priorities (maintenance and area cleaning).

(b) Informal Settlements Management – inclusive of reblocking and relocation plans to enable infrastructure maintenance particularly in areas where structures are erected on critical infrastructure areas such as servitudes, stormwater, water and sewerage pipes, road reserves and

under Eskom Powerlines.

(c) Affordable Housing/Social Housing Programme – inclusive of land identification, packaging and release to the private sector in favour of the development of affordable housing/social housing projects in Langa.

6.1.334 Since the critical issues/allegations in Langa are overcrowding, deferred or lack of adequate maintenance and/or upgrading of infrastructure, it is evident that there is an overlap/duplication in effort by the Public Protector and SAHRC.

6.1.335 The site inspection conducted on 13 November 2025 was a proactive effort and an invitation offered to the SAHRC to emphasize the challenges and issues related to the sewer collapses in/ around Marikana.

6.1.336 It is important to mention that this site inspection/ invitation had been planned before the invitation was extended to the Public Protector, as part of the CoCT's continuous efforts to address the problems in/ around Marikana.

Withdrawal of government funding

6.1.337 The Provincial and National Departments of Human Settlements have indicated that grant funding for the Hostel Transformation Programme (Community Residential Units or CRUs) will not be made available and the absence of funding has significantly hindered the continued implementation of the programme.

6.1.338 It is important to note that the CoCT depends on National grant funding to implement hostel transformation initiatives within the CRU framework and to date no favourable response has been received concerning the allocation of such funding. As a result, further progress on these projects is severely

constraint. The CRU stock remains largely unfunded and is primarily supported through municipal rates, loans, and capital reserves. The CoCT therefore seeks the assistance from the Public Protector in advocating for the availability of funding for substantial improvements to its rental properties.

Disability Awareness Month/ Cooperative governance and Collaboration

6.1.339 The request by the Public Protector to meet with the Executive Mayor and City Manager on 11 November 2025 related to Disability Awareness Month, with particular focus on the prioritization of Mr Patrick Johnson (Mr Johnson), an elderly wheelchair-bound gentleman, and the possibility of relocating him to an area more conducive to his needs.

6.1.340 ISM maintains a detailed database of all relocations that are conducted and indicated that Mr Johnson's case has neither been included in the relocation database of the ten (10) families that were moved nor is he on the list of those who were relocated after verification.

6.1.341 Following further investigation, it is apparent that Mr Johnson was in the Eastern Cape during the time of the relocations and that he later moved in with his daughter.

6.1.342 Nevertheless, considering reports regarding his disability and in the spirit of cooperative governance, collaboration, and the objectives of the meeting, the CoCT expressed its willingness to provide assistance if suitable land could be identified. It was also further established that Mr Johnson was not registered on the CoCT's Housing Needs Register/ database.

6.1.343 The CoCT's senior citizen rental complexes are designated for individuals aged 60 and older who are able to care for themselves independently. Unfortunately,

since Mr Johnson is currently unable to care for himself, the CoCT will regrettably not be able to place him in a senior citizen rental complex. The CoCT's Community, Arts and Culture Development have also indicated that the matter regrettably does not fall within their scope (frail care facilities do not fall within the City's mandate).

6.1.344 Nevertheless, considering Mr Johnson's situation, age, and the request from the Public Protector, the CoCT committed to forward the matter/request to their counterparts at the Provincial Department of Social Development (DSD).

6.1.345 DSD has responded to the CoCT, informing them that they have conducted an assessment of the situation and have engaged with Mr Johnson regarding his accommodation at one of their frail care facilities. However, they have stated that if he chooses not to be accommodated, they cannot compel him to do so.

6.1.346 DSD also confirmed via email that they have visited Mr Johnson and his daughter, with whom he lives, on multiple occasions since 13 November 2025.

6.1.347 It has been noted that his only next of kin is his daughter, who provides limited care due to her work commitments, resulting in Mr Johnson often being alone for extended periods, which raises concerns about his safety and wellbeing.

6.1.348 In light of this, DSD believe, with the family's support, that he should be placed in a Western Cape Government old age home. They have also confirmed that they are in the process of arranging a food parcel for the household while the Western Cape Government social worker completes the necessary procedures for Mr Johnson's admission to an old age home. This recommendation is made in the interest of ensuring his safety and ongoing care.

6.1.349 Furthermore, they have indicated that their interventions are ongoing, with

close monitoring of the case.

6.1.350 The CoCT advised that if the Public Protector wishes to further engage with the officials of the Western Cape Government regarding their proposed intervention for Mr Johnson, the contact details of those officials can be provided.

6.1.351 The CoCT respectfully deem it prudent to reiterate that if Mr Johnson is, for any reason, reluctant to continue residing at a provincial facility, the CoCT cannot compel him to remain there against his wishes. However, should he choose to return to live with his daughter, the CoCT will ensure that he is provided with a suitable toilet facility.

Challenges facing the CoCT

6.1.352 As previously addressed in a response from the Executive Mayor dated 09 June 2022, the CoCT reiterates, on the advice of the Executive Mayor, that it would be prudent for the Public Protector to note and include residents' admission that they had smashed sewer pipes to unblock the pipes.

6.1.353 Further challenges mentioned relates to the monitoring of infrastructure assets in the region which is currently facing significant challenges due to the absence of security escorts. Following the withdrawal of private security escorts after a fatal shooting incident in March 2025, the ISBS branch has been functioning with a diminished number of escorts, which are now supplied by the CoCT's Law Enforcement units.

6.1.354 The safety of staff in the area poses a considerable challenge, given the rise in hijackings and extortion-related incidents in recent months. Consequently, a City-wide directive has been issued stating that no CoCT teams are permitted

to operate in the area without Law Enforcement escorts.

6.1.355 Due to the limited number of escorts available, the branch has had to prioritize the escorting of teams tasked with repairing reported defects, rather than providing escorts for the Operational Supervisor Drivers (OSD's) in the area.

6.1.356 These OSD's are tasked with overseeing the EPWP janitors in the region and reporting any defects identified by the EPWP janitors assigned to clean the existing flush toilets in the area. As the OSD's are unable to operate daily in the area, both the cleaning of the toilets and the reporting of defects have been adversely affected.

6.1.357 The situation is worsened by the fact that residents of SST fail to report defective or vandalized toilets and taps, resulting in extended lead times for teams to address the aforementioned issues.

6.1.358 This is clearly illustrated by the data which indicates that only two (02) defects have been reported by community members since 09 July 2025. Other defects have been reported by the internal depot teams as part of ad hoc inspections and reporting conducted by janitors via radio.

6.1.359 Additional challenges have also been experienced in having the CoCT's Law Enforcement escorts honour the agreed commitments in terms of the daily escorts. In many instances, the escorts do not arrive at the scheduled times, and/or are called away to other areas whilst escorting the depot teams. These issues are continuously being escalated to the Safety and Security sections, although these issues persist.

Submission received from Eskom dated 17 November 2025, following a meeting with ESKOM Officials

6.1.360 The Investigation Team held a meeting with Eskom officials on 29 October 2025 and addressed a Notice to Eskom in terms of section 7(4)(b) of the Public Protector Act, requesting ESKOM to furnish the Public Protector with information bearing on the matter.

6.1.361 During the meeting held on 29 October 2025, Eskom advised as follows:

6.1.361.1 It had engaged with the CoCT concerning the objections raised by members of the community. The CoCT clarified that the Marikana area, has been classified as an invaded site earmarked for future housing development;

6.1.361.2 As a result of this classification, the CoCT is unable to grant approval for the electrification of the Marikana area until such time as the appointed developer provides the requisite authorisation;

6.1.361.3 Eskom further advised that it is awaiting the CoCT's engagement with both the appointed developer and the Marikana community to secure the necessary approvals and community cooperation prior to the commencement of electrification works at SST–Marikana;

6.1.361.4 Eskom reiterated its commitment to assisting the CoCT in resolving the matter and proceeding with the electrification of SST-Marikana beneficiaries once all required approvals and supporting documentation have been obtained;

6.1.361.5 Eskom further informed the Investigation Team that the delay in implementation primarily stems from the pending approval process between the CoCT, the developer and the Marikana community;

6.1.361.6 The CoCT is therefore urged to expedite its engagement with the developer responsible for the Marikana housing project in order to facilitate the necessary authorisations; and

6.1.361.7 Upon receipt of such approvals and once the area has been officially Gazetted, Eskom is expected to proceed with the SST-Marikana electrification project, which is anticipated for inclusion in the 2026/2027 financial year plan.

Response from Mbulelo Yedwa, General Manager: Cape Coastal Cluster

6.1.362 In a letter dated 17 November 2025 from Mbulelo Yedwa, General Manager: Cape Coastal Cluster, states, *inter alia*, as follows in response to the Notice in terms of section 7(4)(b) of the Public Protector Act:

6.1.362.1 During the engagement held on 29 October 2025, information was shared by the Investigation Team which triggered the investigation, i.e. the relocation of Marikana residents who had access to electricity to a location without electricity due to no network infrastructure;

6.1.362.2 The Marikana residents were relocated during April 2024 by CoCT with Eskom having no authority over relocating communities;

6.1.362.3 The Marikana residents were relocated to an area where there were no electricity supply points. This area had no existing network infrastructure as it was not included in Eskom's electrification planning at the time and not part of the gazetting period for that financial year. Eskom further indicate that their electrification process is guided by government's Integrated National Electrification Programme (INEP);

6.1.362.4 Relating to the security of their infrastructure, they increased the deployment

of security personnel in identified high-risk areas, especially around Eskom sub-stations and Customer Network Centres in Khayelitsha;

6.1.362.5 They work closely with their key stakeholders which include the SAPS, CoCT law enforcement, etc to coordinate joint operations and share intelligence;

6.1.362.6 To strengthen the collaboration, monthly meetings are held focussing on addressing criminal activities such as cable theft, vandalism and illegal connections;

6.1.362.7 Eskom established a Rapid Response Team together with their key stakeholders and other strategic partners, which include SAPS and the CoCT law enforcement, to conduct joint operations to identify and remove illegal connections, which present serious safety hazards to the residents and compromise the reliability of the electricity supply;

6.1.362.8 Eskom further conducts ongoing community awareness campaigns in affected areas to educate residents about the dangers of illegal connections and the vandalism of electrical infrastructure, which initiatives also encourage communities to report such activities, helping to prevent injuries and fatalities; and

6.1.362.9 Their continued efforts to monitor and safeguard Eskom's infrastructure from theft, vandalism and illegal connections. These challenges persist across Eskom's supply as they spend millions of rands each year repairing and replacing damaged equipment and therefore appeal for stronger support from law enforcement partners.

Submission received from SAPS dated 08 December 2025 following a meeting with SAPS Officials

6.1.363 A meeting was also held on 29 October 2025 by the Investigation Team with members of the South African Police Service led by Major General L Damoyi, the Western Cape Deputy Provincial Commissioner.

6.1.364 In an Information Note, dated 08 December 2025, from Major General L Damoyi, The Western Cape Deputy Provincial Commissioner: Policing, he states, *inter alia*, as follows in response to the Notice in terms of section 7(4)(b) of the Public Protector Act:

6.1.364.1 SAPS submitted an information note signed and dated 08 December 2025 with the purpose of providing a summary of the action log that has been drafted; and

6.1.365 SAPS subsequently provided an action log to assist the Office of the Provincial Commissioner.

Khayelitsha and Langa Station Commanders (Short Term Plan)

6.1.366 Collaborative efforts with Law Enforcement partners to address communities in these station precincts in terms of property crimes, and serious and violent crime trends.

6.1.367 Visits at tall problematic schools, attend to principal forums.

6.1.368 Awareness campaigns as part of school safety.

6.1.369 Provincial intervention through the Provincial Operations Coordination for

additional deployments and stabilise and normalise communities, by conducting High Density Operations, which includes addressing legal and illegal liquor outlets.

6.1.370 Engage School Governing Body (SGB) in order to address crime at school.

6.1.371 Deployment of members in hotspot areas guided by the Crime Pattern Analysis (CPA) and the Crime Threat Analysis (CTA) to address crime patterns.

6.1.372 Sector Policing: Station Commander attends to community meetings in the forum of sector crime forums, which includes the Community Policing Forum (CPF).

6.1.373 Engage street committees, NGOs and other departments in order to address crime within the station areas.

6.1.374 Crime reduction and recovery plans are in place to address day to day crime in a specific hotspot area/s.

6.1.375 Conduct weekly school searches on all problematic schools.

6.1.376 Conduct High Density Operations in hot spot areas by conducting Vehicle Check Points (VCPs), Roadblocks, tracing operations, liquor operations and focusing on the confiscation of dangerous weapons, firearms and drugs.

Long term plan

6.1.377 Operational contingency recovery plans are in place.

6.1.378 Ongoing collaboration with community forums and structures to ensure

strengthened partnerships in the fight against crime.

6.1.379 Communication with the CoCT in terms of the environmental design of the informal settlements and the repair of streetlights which are enabling criminal activities. The repair and monitoring of CCTV cameras, which will aid in crime prevention efforts.

6.1.380 Collaborate with various external Government Departments to address the underlying social causes of crime, job creation opportunities, Community building and rehabilitation.

6.1.381 Monitoring and evaluating crime situations through the office of the Management Information Official (MIO), in terms of crime threats and patterns.

Awareness and Education Programmes

6.1.382 Continuous educational campaigns at the stations in conjunction with other external role players to educate the community about the matters affecting them, e.g. domestic violence and reaching out to the youth on alcohol and substance abuse and results thereof.

6.1.383 Currently, 16 Days of Activism against Gender Based Violence (GBV) aimed at eliminating violence against women and children and raising awareness, promoting concrete actions, encouraging victims to speak out and supporting survivors.

6.1.384 Youth engagement/s and opportunity programmes to promote skills and mentorship through external partners and role players to help with youth at risk.

6.1.385 Station Imbizo's within communities to address various issues and to enhance

community involvement and engagement in the fight against crime.

Eskom: Vandalism of assets in Langa and Khayelitsha Townships

6.1.386 Meetings will be convened with Eskom and CoCT to effectively address the community concerns.

6.1.387 Eskom Safety Forum (SAPS, CoCT, Eskom).

Community Policing Forum ("CPF") and similar plans/ programmes to address crime

6.1.388 According to SAPS the stations have regular engagements with the CPFs and their involvement in identifying and preventing crime through the various CPF structures.

6.1.389 Programmes such as safe schools programme, community in blue patrollers, sector policing and visible policing through the neighbourhood watch patrols to increase visibility and deter criminal activity, are implemented.

6.1.390 The Law Enforcement Enhancement Plan (LEAP) initiated by the CoCT in which officers are deployed in high crime areas for crime prevention purposes.

6.1.391 Outreach programmes at schools presenting drug and alcohol abuse awareness in distributing sanitary pads and scholastic material to the students to bridge the gap between communities and the police.

Applicable law

Constitution of the Republic of South Africa, 1996

6.1.392 The Constitution is the supreme law of the land[1] and provides, amongst others, the following regarding the rights enshrined in the Bill of Rights in connection with the obligation of state organs to render services to the citizens. In this investigation, the fundamental rights that are possibly impeded are amongst others, the right to human dignity[2], the right to be free from all forms of violence from either public or private sources[3], the right to an environment that is not harmful to health or wellbeing, the right to have access to adequate housing[4], the right to have access to health care services and water[5].

6.1.393 Section 10: Human dignity states that:

"Everyone has inherent dignity and the right to have their dignity respected and protected".

6.1.394 Section 12: Freedom and security of the person, states that:

"(1) Everyone has the right to freedom and security of the person, which includes the right—

(c) to be free from all forms of violence from either public or private sources";

6.1.395 Section 24: Environment states that:

[1] Section 2 of the Constitution.
[2] Section 10 of the Constitution.
[3] Section 12 of the Constitution.
[4] Section 26 of the Constitution.
[5] Section 27 of the Constitution.

"Everyone has the right—

(a) to an environment that is not harmful to their health or wellbeing";

6.1.396 Section 26: Housing, states that:

"(1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right".

6.1.397 Section 27: Health care, food, water and social security, states that:

"(1) Everyone has the right to have access to—

(a) health care services, including reproductive health care;
(b) sufficient food and water; and

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights".

6.1.398 Section 41 sets out the principles of co-operative government and intergovernmental relations, stating that:

"(1) All spheres of government and all organs of state within each sphere must—

(a) preserve the peace, national unity and the indivisibility of the Republic;
(b) secure the well-being of the people of the Republic;

(c) provide effective, transparent, accountable and coherent government for the Republic as a whole;

(d) be loyal to the Constitution, the Republic and its people;

(e) respect the constitutional status, institutions, powers and functions of government in the other spheres;

(f) not assume any power or function except those conferred on them in terms of the Constitution;

(g) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and

(h) co-operate with one another in mutual trust and good faith by—

(i) fostering friendly relations;

(ii) assisting and supporting one another;

(iii) informing one another of, and consulting one another on, matters of common interest;

(iv) co-ordinating their actions and legislation with one another;

(v) adhering to agreed procedures; and

(vi) avoiding legal proceedings against one another."

6.1.399 Section 133 sets out the accountability and responsibility of Members of the Executive Council as:

"(1) The members of the Executive Council of a province are responsible for the functions of the executive assigned to them by the Premier.

(2) Members of the Executive Council of a province are accountable collectively and individually to the legislature for the exercise of their powers and the performance of their functions.

(3) Members of the Executive Council of a province must-

(a) act in accordance with the Constitution and, if a provincial constitution has been passed for the province, also that constitution; and

(b) provide the legislature with full and regular reports concerning matters under their control."

6.1.400 Section 139 of the Constitution provides that:

(1) When a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation, including—

(a) issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations;

(b) assuming responsibility for the relevant obligation in that municipality to the extent necessary to —

(i) maintain essential national standards or meet established minimum standards for the rendering of a service;

(ii) prevent that Municipal Council from taking unreasonable action that is prejudicial to the interests of another municipality or to the province as a whole; or

(iii) maintain economic unity; or

(c) dissolving the Municipal Council and appointing an administrator until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step.

(2) If a provincial executive intervenes in a municipality in terms of subsection (1)(b)—

(a) it must submit a written notice of the intervention to—

(i) the Cabinet member responsible for local government affairs; and

(ii) the relevant provincial legislature and the National Council of Provinces, within 14 days after the intervention began;

(b) the intervention must end if—

(i) the Cabinet member responsible for local government affairs disapproves the intervention within 28 days after the intervention began or by the end of that period has not approved the intervention; or

(ii) the Council disapproves the intervention within 180 days after the intervention began or by the end of that period has not approved the intervention; and

(b) the Council must, while the intervention continues, review the intervention regularly and may make any appropriate recommendations to the provincial executive.

(2) If a Municipal Council is dissolved in terms of subsection (1)(c)—

(a) the provincial executive must immediately submit a written notice of the dissolution to—

(i) the Cabinet member responsible for local government affairs; and

(ii) the relevant provincial legislature and the National Council of Provinces; and

(b) the dissolution takes effect 14 days from the date of receipt of the notice by the Council unless set aside by that Cabinet member or the Council before the expiry of those 14 days.

(4) If a municipality cannot or does not fulfil an obligation in terms of the Constitution or legislation to approve a budget or any revenue-raising measures necessary to give effect to the budget, the relevant provincial

executive must intervene by taking any appropriate steps to ensure that the budget or those revenue-raising measures are approved, including dissolving the Municipal Council and—

(a) appointing an administrator until a newly elected Municipal Council has been declared elected; and
(b) approving a temporary budget or revenue-raising measures to provide for the continued functioning of the municipality.

(5) If a municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, the relevant provincial executive must—

(a) impose a recovery plan aimed at securing the municipality's ability to meet its obligations to provide basic services or its financial commitments, which—
(i) is to be prepared in accordance with national legislation; and
(ii) binds the municipality in the exercise of its legislative and executive authority, but only to the extent necessary to solve the crisis in its financial affairs; and
(b) dissolve the Municipal Council, if the municipality cannot or does not approve legislative measures, including a budget or any revenue-raising measures, necessary to give effect to the recovery plan, and—
(i) appoint an administrator until a newly elected Municipal Council has been declared elected; and

(ii) approve a temporary budget or revenue-raising measures or any other measures giving effect to the recovery plan to provide for the continued functioning of the municipality; or

(c) if the Municipal Council is not dissolved in terms of paragraph (b), assume responsibility for the implementation of the recovery plan to the extent that the municipality cannot or does not otherwise implement the recovery plan.

(6) If a provincial executive intervenes in a municipality in terms of subsection (4) or (5), it must submit a written notice of the intervention to—

(a) the Cabinet member responsible for local government affairs; and

(b) the relevant provincial legislature and the National Council of Provinces, within seven days after the intervention began.

(7) If a provincial executive cannot or does not or does not adequately exercise the powers or perform the functions referred to in subsection (4) or (5), the national executive must intervene in terms of subsection (4) or (5) in the stead of the relevant provincial executive.

(8) National legislation may regulate the implementation of this section, including the processes established by this section.

6.1.401 Section 152(1) defines the objects of local government as:

"(a) to provide democratic and accountable government for local communities;

(b) to ensure the provision of services to communities in a sustainable manner;

(c) to promote social and economic development;

(d) to promote a safe and healthy environment; and

(e) to encourage the involvement of communities and community organisations in the matters of local government.

(2) A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1)".

6.1.402 Section 153 provides that, a municipality must:

"(a) structure and manage its administration and 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; and(b) participate in national and provincial development programmes".

6.1.403 Section 155(6) states that:

"(6) Each provincial government must establish municipalities in its province in a manner consistent with the legislation enacted in terms of subsection (2) and (3) and, by legislative or other means, must-

(a) *provide for the monitoring and support of local government in the province; and*

(b) *promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs."*

6.1.404 Section 156: Powers and functions of municipalities states that:

"(1) A municipality has executive authority in respect of, and has the right to administer—

(a) the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5; and

(b) any other matter assigned to it by national or provincial legislation".

6.1.405 Section 237: Diligent performance of obligations, states that:

"All constitutional obligations must be performed diligently and without delay".

6.1.406 A municipality's administration is governed by the democratic values and principles embodied in section 195(1) of the Constitution.

Basic values and principles governing public administration

195(1) Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

(a) A high standard of professional ethics must be promoted and maintained.
(b) Efficient, economic and effective use of resources must be promoted.
(c) Public administration must be development-oriented.
(d) Services must be provided impartially, fairly, equitably and without bias.
(e) People's needs must be responded to, and the public must be encouraged to participate in policy-making.
(f) Public administration must be accountable.
(g) Transparency must be fostered by providing the public with timely, accessible and accurate information.
(h) Good human-resource management and career-development practices, to maximise human potential, must be cultivated.
(i) Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the

imbalances of the past to achieve broad representation.

Public Protector Act, 1994

6.1.407 Section 6(4)(a) of the Public Protector Act

"(4) The Public Protector shall, be competent—

(a) to investigate, on his or her own initiative or on receipt of a complaint, any alleged—

(i) maladministration in connection with the affairs of government at any level;
(ii) abuse or unjustifiable exercise of power or unfair, capricious, discourteous or other improper conduct or undue delay by a person performing a public function;
(iii) improper or dishonest act, or omission or offences referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, with respect to public money;
(iv) improper or unlawful enrichment, or receipt of any improper advantage, or promise of such enrichment or advantage, by a person as a result of an act omission in the public administration or in connection with the affairs of government at any level or of a person performing a public function; or
(v) act or omission by a person in the employ of government at any level, or a person performing a public function, which results in unlawful or improper prejudice to any other person;"

Local Government: Municipal Structures Act, 1998

6.1.408 The Municipal Structures Act (MSA) envisions democratic and developmental local government in which municipalities fulfil their constitutional obligations to ensure sustainable, effective and efficient municipal services, promote social and economic development, encourage a safe and healthy environment by working with communities in creating environments and human settlements in which all our people can lead uplifted and dignified lives.

6.1.409 Section 56 of the Act provides for the functions and powers of executive mayors and states, *inter alia*, that:

"(2)(c) recommend to the municipal council strategies, programmes and services to address priority needs through the integrated development plan and the estimates of revenue and expenditure taking into account any applicable national and provincial plans; and

(3)(c) The executive mayor in performing the duties of office must review the performance of the municipality in order to improve –

(i) the economy, efficiency and effectiveness of the municipality;
(ii) the efficiency of credit control and revenue and debt collections services; and
(iii) the implementation of the municipality's bylaws.

(d) Monitor the management of the municipality's administration in accordance with the directions of the municipal council;

(e) Oversee the provision of services to communities in the municipality in a sustainable manner".

White Paper, 1998 on Local Government

6.1.410 The White Paper asserts that basic services enhance the quality of life of citizens and increase their social and economic opportunities by promoting health and safety, facilitating access to work, to education, to recreation and stimulating new productive activities.

Local Government: Municipal Systems Act, 2000

6.1.411 Section 4: Rights and duties of municipal councils, states that:

"(1) The council of a municipality has the right to-

(a) govern on its own initiative the local government affairs of the local community…

(2) The council of a municipality, within the municipality's financial and administrative capacity and having regard to practical considerations, has the duty to-

(d) strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner;

…

(i) promote a safe and healthy environment in the municipality; and

(j) contribute, together with other organs of state, to the progressive realisation of the fundamental rights contained in sections 24, 25, 26, 27 and 29 of the Constitution".

6.1.412 Section 5: Rights and duties of members of local community states that:

"(1) Members of the local community have the right-

(b) to prompt responses to their written or oral communications, including complaints, to the municipal council or to another political structure or a political office bearer or the administration of the municipality;

(2) Members of the local community have the duty-

…

(b) where applicable, and subject to section 97 (1) (c), to pay promptly service fees, surcharges on fees, rates on property and other taxes, levies and duties imposed by the municipality;

…

(d) to allow municipal officials reasonable access to their property for the performance of municipal functions; and

(e) to comply with by-laws of the municipality applicable to them".

6.1.413 Section 6: Duties of municipal administrations, states that:

"(1) A municipality's administration is governed by the democratic values and principles embodied in section 195 (1) of the Constitution.

(2) *The administration of a municipality must-*

(a) *be responsive to the needs of the local community;*

(b) *facilitate a culture of public service and accountability amongst staff;*

(c) *take measures to prevent corruption;*

(d) *establish clear relationships, and facilitate co-operation and communication between it and the local community;*

(e) *give members of the local community full and accurate information about the level and standard of municipal services they are entitled to receive; and*

(f) *inform the local community how the municipality is managed, of the costs involved and the persons in charge."*

6.1.414 Section 11: Executive and legislative authority, states that:

"(3) A municipality exercises its legislative or executive authority by-

(a) developing and adopting policies, plans, strategies and programmes, including setting targets for delivery;

…

(f) providing municipal services to the local community or appointing appropriate service providers in accordance with the criteria and process set out in section 78".

6.1.415 Section 73: General duty, states that:

"(1) A municipality must give effect to the provisions of the Constitution and-

(a) give priority to the basic needs of the local community;
(b) promote the development of the local community; and
(c) ensure that all members of the local community have access to at least the minimum level of basic municipal services.

(2) Municipal services must-

(a) be equitable and accessible;
(b) be provided in a manner that is conducive to-
(i) the prudent, economic, efficient and effective use of available resources; and
(ii) the improvement of standards of quality over time;
(c) be financially sustainable;

(d) be environmentally sustainable; and

(e) be regularly reviewed with a view to upgrading, extension and improvement".

6.1.416 Section 76: Mechanisms for provision of services states that:

"A municipality may provide a municipal service in its area or a part of its area through-

(a) an internal mechanism, which may be-

(i) a department or other administrative unit within its administration;

(ii) any business unit devised by the municipality, provided it operates within the municipality's administration and under the control of the council in accordance with operational and performance criteria determined by the council; or

(iii) any other component of its administration; or

(b) an external mechanism by entering into a service delivery agreement with-

...

(iv) a community-based organisation or other non-governmental organisation legally competent to enter into such an agreement, or

(v) any other institution, entity or person legally competent to operate a business activity".

6.1.417 Section 79: Provision of services by municipality through internal mechanism, states that:

"If a municipality decides to provide a municipal service through an internal mechanism mentioned in section 76 (a), it must-

(a) allocate sufficient human, financial and other resources necessary for the proper provision of the service; and

(b) transform the provision of that service in accordance with the requirements of this Act".

6.1.418 Section 96: Debt collection responsibility of municipalities states that:

"A municipality-

(a) *must collect all money that is due and payable to it, subject to this Act and any other applicable legislation".*

6.1.419 Section 106(1A): Non-performance and maladministration states that:

"(1A) The MEC must table a report detailing the outcome of the investigation in the relevant provincial legislature within 90 days from the date on which the MEC designated a person or persons to investigate the matter and must simultaneously send a copy of such report to the Minister, the Minister of Finance and the National Council of Provinces."

National Energy Act 34 of 2008

6.1.420 Section 2 of the National Energy Act (the NEA) states that its objective, among others, is to ensure an uninterrupted supply of energy to the nation and facilitate energy access to improve the quality of life of the people of South Africa.

6.1.421 Section 5(1) of the NEA states that the Minister must adopt measures that provide for universal access to appropriate forms of energy, or energy services, to the citizens of South Africa at affordable prices. Section 5(2) states that the

access referred to in section 5(1) is subject to, amongst other things, the availability of energy resources and whether the authority in question can afford such resources.

6.1.422 Section 6 provides that the Minister must develop and, on an annual basis, review and publish the Integrated Energy Plan ("the IEP") in the Gazette. The IEP must deal with issues relating to the supply, transformation, transport, storage of and demand for energy in a way that accounts for economically available energy resources, universal accessibility and free basic electricity.

National Environmental Management: Waste Act, 2008

6.1.423 Section 9 of the Waste Act establishes comprehensive legal standards that serve as the primary framework for evaluating the City of Cape Town's conduct in waste management service delivery. The provision creates mandatory obligations requiring municipalities to exercise their executive authority in waste removal, storage, and disposal services while ensuring strict compliance with national and provincial norms and standards established under sections 7 and 8 of the Act. Critically, subsection (2) imposes six specific duties that form the legal benchmarks for assessment: adherence to all regulatory norms and standards, integration of waste management plans with integrated development plans, ensuring universal access to services, providing affordable services aligned with Municipal Systems Act tariff policies, maintaining sustainable and efficient service delivery, and keeping separate financial statements with detailed balance sheets.

6.1.424 The section further empowers municipalities to establish local standards for waste separation, storage, management, and litter control, provided these align with higher-order regulatory requirements, creating an additional layer of legal accountability for municipal conduct. Importantly, the provision mandates

that when national or provincial authorities intervene in municipal waste management, they must seek to support and strengthen rather than undermine municipal capacity, establishing a cooperative governance framework that informs how investigations should be conducted.

6.1.425 Section 9 provides the legal foundation to assess whether the municipality has fulfilled its statutory obligations in waste service delivery, maintained proper financial controls and transparency, ensured equitable access to services, and complied with regulatory standards. Section 9 therefore serves as a critical legal standard for determining whether the CoCT's conduct meets the requirements of South African waste management law and justifies any remedial action or intervention by the Public Protector.

Occupational Health and Safety Act, 1993

6.1.426 Section 8: General duties of employers to their employees:

"8(2) Without derogating from the generality of an employer's duties under subsection (1), the matters to which those duties refer include in particular-

…

(c) making arrangements for ensuring, as far as is reasonably practicable, the safety and absence of risks to health in connection with the production, processing, use, handling, storage or transport of articles or substances."

6.1.427 Section 9: General duties of employers and self-employed persons to persons other than their employees:

"9. (1) 'Every employer shall conduct his undertaking in such a manner as to ensure, as far as is reasonably practicable, that persons other than those in his employment who may be directly affected by his activities are not thereby exposed to hazards to their health or safety."

International Covenant on Economic, Social and Cultural Rights

6.1.428 Article 11 of the (ICESCR) recognises the right of everyone to an adequate standard of living, including adequate housing.

The United Nations Committee on Economic, Social and Cultural Rights

6.1.429 The UNCESCR has underlined that the right to adequate housing should not be interpreted narrowly. Rather, it should be seen as the right to live somewhere in security, peace and dignity and contain freedoms which include security of tenure.

6.1.430 The right to adequate housing is not only a programmatic goal to be attained in the long term. Another misunderstanding is that the right to adequate housing does not impose immediate obligations on the State. On the contrary, State Parties must make every possible effort, within their available resources, to realise the right to adequate housing and to take steps in that direction without delay. Notwithstanding resource constraints, some obligations have immediate effect, such as the undertaking to guarantee the right to adequate housing in an equal and non-discriminatory manner, to develop specific legislation and plans of action, to prevent forced evictions or to guarantee a certain degree of security of tenure to all.

Cape Town Metropolitan Municipality Water and Sanitation Services Policy of 2023

6.1.431 Item 6.2(c) states that:

"CoCT's Water and Sanitation Directorate's role is to provide water and sanitation services to all its consumers, which includes:

(c) operation and maintenance of water and sanitation infrastructure across the CoCT."

6.1.432 Item 7.2.2.1 of the Water and Sanitation Services Policy states that:

"Basic sanitation services entails the provision of basic sanitation facility that is environmentally sustainable and easily accessible to a household and a consumer. This is delivered through the sustainable operation and maintenance of an associated facility that includes the safe removal of human waste, grey water and wastewater from the premises, where appropriate and necessary. In addition, basic sanitation services includes proper communication and local monitoring of the service, hygiene and related matters."

Cape Town Metropolitan Municipality Allocation Policy: Housing Opportunities, 2022 (Policy Number 11969)

6.1.433 Item 3.3.2 states that:

"There are various circumstances that could lead to a tenancy being cancelled while there are person, usually dependents of the tenant, still residing in the rental unit. CoCT makes provision to consider the possible transfer of a

tenancy of a rental unit to one of the persons who remain behind on condition that they meet the criteria stipulated in clauses 3.3.2.1 – 3.3.2.8 below. Failing to meet the criteria as stipulated will result in all occupants being notified to leave the rental unit…"

RULES RELATING TO INVESTIGATIONS BY THE PUBLIC PROTECTOR AND MATTERS INCIDENTAL THERETO, 2018 AS AMENDED

6.1.434 *Rule 23(2)(d) of the Public Protector Rules* states that where a state institution receives correspondence from the Public Protector, including a request for information, a Notice in terms of section 7(9) of the Public Protector Act or a provisional report, it must submit a written reply or written substantive reply, except where the Public Protector specifies otherwise, within 10 days of the receipt of such a Notice.

Case Law

6.1.435 In *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd 2012(2) SA 104 CC* at paragraph 74, the municipality argued that it could not provide temporary accommodation to a group of evicted persons as it did not have an adequate budget for the fulfilment of its obligations. In rejecting the Municipality's argument, the Constitutional Court held as follows: "*This Court's determination of the reasonableness of measures within available resources cannot be restricted by budgetary and other decisions that may well have resulted from a mistaken understanding of constitutional or statutory obligations. In other words, it is not enough for City to state that it has not budgeted for something if it should indeed have planned and budgeted for it in the fulfilment of its obligations".*

6.1.436 Whilst budgetary limitations and challenges exist, such should not be allowed

to completely take away explicit constitutional objectives and deny people proper health care services or basic municipal services.

6.1.437 In the case of *Government of the Republic of South Africa and Others v Grootboom and Others* (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169 (4 October 2000) the Court held amongst others that:

"[35] The right delineated in section 26(1) is a right of "access to adequate housing" as distinct from the right to adequate housing encapsulated in the Covenant. This difference is significant. It recognises that housing entails more than bricks and mortar. It requires available land, appropriate services such as the provision of water and the removal of sewage and the financing of all of these, including the building of the house itself. For a person to have access to adequate housing all of these conditions need to be met, there must be land, there must be services, there must be a dwelling.

[37] The state's obligation to provide access to adequate housing depends on context, and may differ from province to province, from CoCT to CoCT, from rural to urban areas and from person to person. Some may need access to land and no more; some may need access to land and building materials; some may need access to finance; some may need access to services such as water, sewage, electricity and roads. What might be appropriate in a rural area where people live together in communities engaging in subsistence farming may not be appropriate in an urban area where people are looking for employment and a place to live".

6.1.438 The Tshwane dissolution case *(In the Premier, Gauteng and Others v Democratic Alliance and Others; All Tshwane Councillors who are Members of the Economic Freedom Fighters and Another v Democratic Alliance and Others; African National Congress v Democratic Alliance and Others [2021] ZACC*

established that section 139 intervention powers are discretionary, “but a power coupled with a duty”. The Constitutional Court held that:

*“The provincial government has a constitutional duty to intervene where a municipality cannot, or does not, fulfil its executive obligations. “In this constitutional scheme the provincial executive is fully entitled, **if not obliged**, to do what is necessary to ensure the fulfilment of executive obligations”. Para 59) (emphasis added)*

Provincial executives have latitude in determining when and how to exercise intervention powers: “The wide discretion conferred upon a provincial executive is qualified only by the requirement of appropriateness. The steps taken must be suitable in that they should be capable of fulfilling the obligations concerned. The appropriateness of the steps in a given case depends on the nature of the unfulfilled obligation and the circumstances that gave rise to the unfulfillment.”

The discretion conferred upon provincial executives by section 139(1) is wide.*” “By parity of reasoning, provincial executives are permitted to select appropriate steps of their own choice and are not obliged to choose the more or most appropriate steps. For as long as the selected steps are appropriate, there would be compliance with section 139(1).”*

6.1.439 The power to dissolve municipal councils under section 139(1)(c) requires exceptional circumstances that must be objectively determined.

6.1.440 Intervention must be rational and proportionate to the municipal failure.

Analysis

6.1.441 Evidence obtained and observations made by the Public Protector during *in loco* inspections and interviews conducted with community members in Langa Flats and Khayelitsha townships highlighted numerous systemic deficiencies affecting the effective delivery of basic municipal and primary health care services in these areas.

Access to adequate water and sanitation

6.1.442 CoCT's response to the Notice sets out operational, infrastructural, and constitutional arguments to refute allegations of service delivery failures in Langa Flats and Khayelitsha. CoCT acknowledges recurrent sewer blockages, spillages, and sanitation challenges, but attributes these primarily to illegal structures, unlawful connections, dumping of foreign objects, vandalism, and community resistance to relocation. Against this backdrop, CoCT asserts that it has implemented robust systems (C3, RIMA, EPWP mobilization, master planning, and education campaigns) and that it continues to provide a minimum level of basic services as required by law.

6.1.443 The central dispute is framed against Section 27(1)(b) of the Constitution, which guarantees the right of access to sufficient water, reinforced by Section 27(2) which obliges the State to take reasonable legislative and other measures, within available resources, to progressively realise this right. CoCT emphasizes that illegal dwellings erected over servitudes obstruct maintenance of infrastructure.

6.1.444 CoCT further challenges the PPSA's interpretation of section 27 of the Constitution and argues that this constitutional imperative creates a right of access, not an absolute right to water itself. CoCT further asserts that the

PPSA holds it to an “unjustifiably higher standard” than that required by law.

6.1.445 The intervention by the Public Protector arises from persistent, serious allegations of recurring sewer blockages and spillages; stagnant greywater; inconsistent or non-functional communal sanitation; and disputed access to potable water within parts of Langa Flats and Khayelitsha reported by community members. Against CoCT’s assertions of extensive operational measures and exogenous constraints, the PPSA evaluates whether the CoCT’s programme is reasonable, coherent, effectively implemented, and sustainably remedial, rather than episodic, reactive, or administratively deferred. The Public Protector notes that these conditions, by their nature and duration, suggest systemic and not merely incidental, service delivery deficits.

6.1.446 Inspections *in loco* and follow-up engagements with residents over an extended period corroborated that surcharges and greywater stagnation reoccur at identifiable hotspots. While CoCT reports specific repair actions and clean-ups, the recurrence pattern, rather than the occurrence of isolated incidents, anchors the Public Protector’s concern about the adequacy and sustainability of the CoCT’s overall programme.

6.1.447 While the Public Protector recognises the scale of logged incidents and the rollout of the RIMA system across twenty three (23) depots with mobility tools, however, the sheer volume of complaints, coupled with recurring blockages attributed largely to foreign objects, rags, and fats, indicates that operational throughput has not yet translated into sustained relief for affected communities.

6.1.448 The CoCT attributes many failures to illegal structures over servitudes, illegal household connections, theft of manhole covers, and a deteriorating security environment (including hijackings). While the Public Protector acknowledges these constraints, however, municipal accountability is not extinguished by

third-party misconduct. These challenges trigger a duty to enforce bylaws lawfully and proactively to secure critical infrastructure, develop alternative engineering solutions where feasible and coordinate multi-agency responses such as SAPS, etc. to maintain minimum standards.

6.1.449 The Public Protector acknowledges CoCT's extensive activity footprint and the non-trivial operational constraints it faces. Nonetheless, constitutional reasonableness demands that persistent, rights-impairing conditions be materially reduced and sustainably contained. Where harmful recurrences endure despite ongoing inputs, remedial design must shift from reactive clearance to structural prevention, underpinned by reliable asset data, enforceable bylaws, safety-assured access, and transparent outcome monitoring.

SST-Marikana access to water

6.1.450 In the response letter dated 19 April 2025 to the Notice, the CoCT submitted that[6], *"Contrary to the allegations, services are being provided and as follows; 35 Chemical Toilets- confirmed 100%; 281 Full Flush Toilets and 143 water taps"* at SST-Marikana. CoCT further submitted that, *"Kindly note that the GIS data on infrastructure may not be 100% accurate as some of CoCT's GPS data collected for new installations have been corrupted for FY21-22 & FY22-23 and we are unable to recover those files".*

6.1.451 The CoCT's response further states that, *"All existing communal facilities are nonetheless within short walking distance from the relocation site as well, so no additional standpipe was added"*[7]. CoCT's assertion that 143 water taps are available at SST-Marikana is contradicted by objective evidence from multiple

[6] See para 183 of CoCT's response to Notice.
[7] See para 185 of CoCT's response to Notice.

site inspections conducted by the Investigation Team on 23 January 2025 and 30 January 2025. No such taps were observed during these inspections, and residents confirmed reliance on a single illegal, self-connected communal tap, demonstrating misrepresentation of compliance by the CoCT with constitutional water access obligations."

6.1.452 Furthermore, the CoCT's reliance on the alleged corruption of GIS data in FY21–22 and FY22–23 does not exonerate it from its statutory and constitutional obligations. In law**,** administrative incapacity or internal system failures cannot serve as a lawful justification for non-compliance with constitutional rights. The residents' testimony regarding their reliance on a single illegally connected communal tap, combined with the absence of observable taps during inspections, establishes *prima facie* evidence of service delivery failure.

6.1.453 In a subsequent correspondence received from the CoCT, dated 1 December 2025, following additional meetings and *inspections in loco*, the CoCT expressed sincere regret and extended an apology for any inconvenience caused by the calculation of distances to taps; however, it is important to note that this information was based on the available GIS data. Following an inspection conducted with the Investigation Team, it has been verified that there are six (06) to seven (07) toilets available for the use of the relocated ten (10) families, as opposed to just one. Water and sanitation services are otherwise provided in alignment with National Norms and Standards wherever possible, relying on GIS data rather than estimated distances.

6.1.454 The CoCT further stated that to consider the installation of extra taps and toilets at or near the ten (10) relocated families, it is essential to first conduct a study followed by a site inspection to evaluate the feasibility of providing a new standpipe. This procedure will require a new application for a metered

connection, as well as a new sewer connection. Typically, the entire process, which encompasses the study, capacity analysis of the existing networks, submission of applications, and securing approvals, may take as long as three months.

6.1.455 While water and sanitation services are provided in accordance with National Norms and Standards wherever possible, the CoCT is, as previously stated, investigating the potential installation of additional taps and toilets for the 10 families relocated adjacent to the Clinic. The necessary applications for this have already been submitted, although the provision remains contingent upon further investigations.

6.1.456 The evidence before the Public Protector confirms that SST-Marikana residents do not enjoy access to clean and sufficient water post-relocation, contrary to CoCT's claim that adequate services were provided. This omission constitutes a violation of section 27(1)(b) of the Constitution, which entrenches the right of everyone to access sufficient water. However, the CoCT was made aware and the necessary applications has been submitted by the CoCT officials for the potential installation of additional taps.

6.1.457 Section 27(2) places a positive obligation on the state to adopt reasonable legislative and other measures within its available resources to progressively realise this right. Parliament operationalised this obligation through the Water Services Act, 1997, which designates CoCT as a water services authority. As such, CoCT carries a direct statutory duty to ensure the provision of basic water supply, defined as the minimum amount of potable water necessary to prevent disease and maintain life.

6.1.458 The Public Protector's finding that CoCT's concession, namely the claim of one hundred and forty three (143) taps, was unsupported by observable reality

further strengthens the conclusion that CoCT failed to discharge its constitutional and statutory duties. Importantly, the Public Protector makes it clear that the remedial expectation does not amount to irregular, fruitless, or wasteful expenditure; rather, it is an enforcement of the minimum core obligation under the Bill of Rights.

6.1.459 While the Constitution recognises the principle of progressive realisation of socio-economic rights, the jurisprudence of the Constitutional Court (notably in *Mazibuko v City of Johannesburg 2010(4) SA 1 (CC)*) establishes that municipalities must demonstrate reasonable measures taken to ensure access to water. CoCT cannot rely on the non-availability of resources when it has already demonstrated capacity to provide other services, such as ablution facilities. The selective allocation of resources amounts to an unreasonable measure where such allocation results in the denial of an essential and constitutionally guaranteed right to water.

6.1.460 South Africa's obligations are not only constitutional but also international. The International Covenant on Economic, Social and Cultural Rights (ICESCR), as interpreted by the UN Committee on Economic, Social and Cultural Rights, recognises access to water as integral to Articles 11 and 12 (the rights to an adequate standard of living and to the highest attainable standard of health).

6.1.461 Furthermore, the 2010 UN General Assembly Resolution explicitly affirms the right to safe and clean drinking water and sanitation as a fundamental human right. These instruments, while not directly enforceable as domestic law absent incorporation, guide the interpretation of constitutional rights in terms of section 39(1)(b) of the Constitution, which requires courts and organs of state to consider international law when interpreting the Bill of Rights.

6.1.462 Section 73 of the Municipal Systems Act mandates municipalities to provide

services in a manner consistent with constitutional requirements, ensuring that basic needs are met and that residents enjoy at least a minimum level of services necessary for health and safety. The Act's definition of "basic municipal services" encompasses water and sanitation. CoCT's failure to provide potable water to SST-Marikana residents, despite relocating them, constitutes non-compliance with both the letter and spirit of the Act.

6.1.463 Additionally, South Africa's indigent policy obliges municipalities to provide free basic services, including a minimum quantity of free potable water, to qualifying households. The residents of SST-Marikana, an informal settlement community, are presumptively within this category, thus intensifying CoCT's duty of provision.

6.1.464 The lack of access to sufficient water has cascading consequences for a range of other rights, including the rights to life, dignity, health, housing, food, equality, and security of the person. The Constitutional Court in Mazibuko recognised that water is indispensable for life and dignity. The absence of accessible taps in SST-Marikana not only violates section 27, but also undermines these interconnected rights.

6.1.465 The Court's emphasis on water security, defined as availability of safe water in sufficient quality and quantity, establishes that CoCT's failure to provide functional, accessible taps amounts to a systemic denial of water security. This denial is inconsistent with the state's constitutional obligations and places residents at risk of health hazards, fire vulnerability, as evidenced by the January 2025 incident and further indignity.

SST-Marikana access to electricity

6.1.466 This section of the dispute concerns the relocation of residents from sewer

servitudes to SST–Marikana, where they no longer had access to electricity. CoCT asserts that electricity supply in Khayelitsha falls within Eskom's jurisdiction and therefore outside CoCT's mandate. The PPSA does not demand that CoCT itself provide electricity infrastructure but maintains that having initiated the relocation, CoCT had a constitutional and statutory duty to coordinate, facilitate and engage Eskom to ensure residents were not deprived of electricity they previously enjoyed.

6.1.467 In its response to the Notice the CoCT stated that, "*the proposed remedial action is not only overreaching but entirely flawed, as it unlawfully requires the CoCT to incur unauthorised, irregular, and/or fruitless and wasteful expenditure. The CoCT further stated that Marikana is within an Eskom supply area and therefore outside CoCT's jurisdiction. Any adverse finding or remedial action against CoCT is baseless and devoid of merit, making it inherently invalid and indefensible".*

6.1.468 CoCT relies on the fact that Khayelitsha falls within Eskom's supply area, not CoCT's distribution jurisdiction. Accordingly, any remedial action directing CoCT to electrify the settlement would, in its view, be *ultra vires*, as it falls outside its powers and such action would amount to unauthorised, irregular, fruitless, and wasteful expenditure under the MFMA. CoCT, therefore, regards any adverse finding against it on this issue as invalid and indefensible. In addition, CoCT asserts that it has "no control" over illegal connections in the Eskom-supply area. It frames illegal connections as a matter solely within Eskom's remit and does not propose interventions to discourage or mitigate the practice.

6.1.469 Eskom has indicated that its internal team, in collaboration with SAPS, CoCT Law Enforcement, and other strategic partners, has formed Rapid Response Teams to carry out joint operations aimed at identifying and eliminating illegal

connections. These connections pose significant safety risks to residents and jeopardize the reliability of the electricity supply. In addition, continuous community awareness campaigns are being implemented in the impacted areas to inform residents about the dangers associated with illegal connections and the vandalism of electrical infrastructure. These initiatives also motivate community members to report such activities, thereby assisting in the prevention of injuries and fatalities.

6.1.470 SAPS reiterated the above as part of their short-and long-term plans, collaborative efforts with Law Enforcement to address property crimes, underlying social causes of crime, and to ensure strengthening partnerships in fighting crime. Thus, the Public Protector acknowledges the collaborative and intergovernmental relations in co-operating with one another in mutual trust and good faith.

6.1.471 The Public Protector acknowledges that electricity distribution in Khayelitsha is Eskom's responsibility. However, in this instance the relocation of the residents of Marikana was initiated by CoCT officials. Furthermore, residents previously had electricity access at their original location.

6.1.472 The CoCT in its latest response, dated 01 December 2025, indicated the ISM teams engaged Eskom on 16 May 2024 to complete and submit the necessary forms to Eskom. At the time the ISM team was not required to provide a DGN design and throughout the process the ISM team has made every effort to support the provision of electricity to the relocated families. The CoCT confirmed that all relevant information was shared with Eskom and that to the best of their knowledge, no incomplete documentation was submitted.

6.1.473 Therefore, while CoCT may not directly supply electricity, it retains a duty of care to educate communities on the dangers of illegal connections. A

responsibility to foster safety under section 152(1)(d) of the Constitution, which enjoins the state to promote a safe and healthy environment. Accordingly, CoCT has prior to the relocation of the families to their current location carried out comprehensive inspections to ensure that no live electrical wires were exposed and to mitigate the risks this was coordinated with Eskom to ensure that all electrical boxes were properly connected before the relocation began and Eskom officials were present throughout the entire preparations from initial preparations to the final day to ensure all safety protocols and providing technical oversight.

6.1.474 The Public Protector acknowledges CoCT's interventions in repairing high masts and streetlights. This recognition underlines that CoCT retains responsibilities for certain public safety-related electrical infrastructure, even within Eskom supply areas. The Public Protector further recognizes that CoCT cannot lawfully incur expenditure to supply electricity in Eskom's jurisdiction. In this case, the Public Protector does not place an obligation on CoCT to directly provide electricity to the residents of Marikana but acknowledged that the CoCT has facilitated this process**,** as the CoCT has as part of the electrification consideration process, completed and submitted a formal survey to Eskom for review. The CoCT stated that thus far, all the necessary documentation, including completed surveys, have been submitted to Eskom for their attention and decision making. However, Eskom is understandably concerned and requires the consent of the community before proceeding with the electrification of the ten (10) families.

6.1.475 The Municipal Systems Act and Constitution enjoin the state officials to protect the health, safety, and dignity of the citizens. Therefore, even where Eskom is the supplier, CoCT maintained the obligation to educate, coordinate enforcement, and mitigate hazards.

Langa Flats housing units infrastructure maintenance

6.1.476 On 07 March 2022, during an *inspection in loco*, the Executive Mayor undertook to ensure that vandalised fire hose reels and fire extinguishers would be assessed and repaired. Follow-up responses on 09 June 2022 and 19 April 2025, respectively, reiterated that professional service providers would inspect and repair these items within the financial year. However, during in loco inspection on 03 July 2025, the equipment remained unrepaired and unserviced, with CoCT officials attributing the failure to community interference with contractors.

6.1.477 During a further *inspection in loco* on 09 December 2025, it was noted that the equipment had not yet been repaired. Nevertheless, the CoCT confirmed that approval for the utilisation of the transversal tender had been granted, and an assessment of the maintenance and repair work had already been performed by the contractor to establish what is required from the contractor. Work is expected to commence after the builder's holiday in January/ February 2026.

6.1.478 Section 152(1)(d) of the Constitution obliges municipalities to promote a safe and healthy environment. Fire safety equipment in multi-unit dwellings is integral to this duty. Furthermore, section 73(1)(a) of the Municipal Systems Act, requires municipalities to ensure that services are provided in a manner that is equitable and sustainable. Leaving multi-storey housing blocks without fire safety readiness exposes residents to unacceptable risks. The reliance on community interference as a blanket defence does not absolve CoCT.

6.1.479 Municipalities retain a duty to enforce bylaws ensuring safe access for contractors, develop alternative delivery methods when community disruptions occur, and work collaboratively with SAPS and community forums to ensure lawful completion of contracted work.

Structural Defects and Maintenance of Common Areas

6.1.480 CoCT committed to professional assessment in the 2023 financial year to resolve cracks in the housing units and staircases identified during the *inspection in loco* in March 2022. However, as of April 2025, CoCT again undertook to inspect and repair cracks "if required."

6.1.481 During the inspection on 03 July 2025, it was confirmed that cracks remained unrepaired and common areas untidy. CoCT denied the allegations that residents contribute one hundred Rand (R100) per household for a cleaner, citing lack of receipts and instead referenced an EPWP cleaning programme.

6.1.482 During a further inspection on 09 December 2025 the CoCT indicated that the structural engineer is busy with an assessment, but that the initial assessments noted that the cracks do not present a structural risk. Regarding general maintenance, repairs were done and daily monitoring is taking place, this was evident with the staff who were already on site on the day.

6.1.483 At the inspection on 09 December 2025 that CoCT further confirmed that EPWP staff were appointed and would be signing contracts on 10 December 2025 to attend to area cleaning in general in Block J2.

6.1.484 Section 26 of the Constitution guarantees access to adequate housing. Structural integrity and safe communal spaces are an inseparable component of "adequate housing." By failing to attend to structural cracks, CoCT risks violating its duty under the Housing Act, 1997 to ensure safe, habitable housing. Even in the absence proof that residents contribute for cleaning, the state of untidiness indicates CoCT's EPWP cleaning programme needs to closely monitor the EPWP to ensure its effectiveness and consistency as held in the *Mazibuko* and *Grootboom* cases where the court held that "*programmes*

must not only exist but deliver effective outcomes".

Sanitation Infrastructure

6.1.485 Sewer overflows noted in March 2022 and April 2023 were partially repaired, but by July 2025 a new overflow appeared adjacent to the repaired site in Blocks J1 and J3.

6.1.486 A collapsed sewer in Zone 20 was successfully repaired. CoCT received R40 million for infrastructure maintenance, including upgrades to Langa Flats sewers. Section 27(1)(b) of the Constitution guarantees the right of access to sufficient water, which extends to safe sanitation. Repeated sewer overflows undermine this right and also infringe Section 24 of the Constitution to a healthy environment.

6.1.487 CoCT's allocation of forty million Rand (R40 000 000), is evidence of intent, but the recurrence of blockages at new sites underscores systemic fragility and ineffective preventative planning. CoCT must enforce bylaws, conduct sustained education, and design resilient infrastructure suited to foreseeable misuse.

6.1.488 The Public Protector acknowledges the contextual factors such as poverty, migration pressures, informal settlements, and strained municipal revenue constraints but stresses that a developmental state must prioritise essential services, particularly in disadvantaged communities. This must be balanced with citizens' advocacy initiative and education and enforcement of bylaws to mitigate against land invasions, vandalism, and mistrust.

Road infrastructure maintenance

6.1.489 In her response, Ms Sayed acknowledges CoCT's ongoing challenges but emphasised CoCT's commitment to infrastructure delivery and service improvement. She submitted that CoCT has various resurfacing projects running in Khayelitsha from 2019 to 2024, that stormwater interventions are being implemented within available budgets, and that CoCT increased its essential services allocation by four hundred million Rand (R400 000 000) in 2021/22, with further expansions anticipated.

6.1.490 Ms Seyaad also echoes that of the Executive Mayor, who similarly asserted that CoCT seeks to apply best practice principles in road management and infrastructure maintenance. Both responses sought to demonstrate that CoCT is allocating substantial resources to roadworks, waste collection, and maintenance services.

6.1.491 While CoCT has made endeavours to maintain and repair certain roads, however, it was evident that there are instances of inadequate maintenance of road infrastructure in areas such as Sulani Drive, Khayelitsha, where a sinkhole was noted during the Public Protector's site inspection on 07 March 2022. The resident indicated that the sinkhole was repaired shortly after the Public Protector's visit.

6.1.492 The sewer at Langa Flats is still not fully repaired and fire reels and wall cracks are still not repaired. The common areas of Langa Flats are still untidy but CoCT has put long term measures in place to ensure the cleanliness of the common areas of Langa Flats in that it was confirmed by the CoCT that contracts with EPWP workers will be signed on 10 December 2025, general maintenance repair work were done with daily monitoring, assessments of cracks by the structural engineer as well as the assessment of maintenance

and repair work by the contractor of the fire reels.

6.1.493 In Section 63, Walter Sisulu Road, Makhaza, a deep pothole was observed during the on-site inspection by the Public Protector on 07 March 2022. The Investigation Team established that the pothole had been repaired and that construction activities were in progress on the road when it visited the area in August 2022.

6.1.494 Regarding complaints from residents of Khayelitsha township, Executive Mayor Hill-Lewis, stated, *inter alia*, in his response of 09 June 2022, that CoCT seeks to ensure that its road network is efficiently managed by applying best practice principles and carrying out required stormwater maintenance interventions timeously and within budget. He further stated that CoCT has various ongoing resurfacing projects for Khayelitsha township from 2019 to 2024; and the provision of essential services, including waste collection and the continuous maintenance of these services, experienced an increase of four hundred million Rand (R400 000 000) in the financial year 2021/2022, and is expected to undergo further expansion in the future.

6.1.495 The Constitution enshrines the rights of all people in the country to dignity, equality before the law, freedom and security. The Constitution further stipulates that municipalities have the mandate, within its available resources, to ensure a regular supply of basic services such as water, electricity, roads, schools and health care services in as much as those services fall within its constitutional functional areas.

6.1.496 Section 152 of the Constitution delineates the constitutional objectives of local government, which are crucial for achieving a democratic, accountable, and developmental framework for local governance. It provides in section 152(1)(b) that local government must ensure the provision of services to communities in

a sustainable manner.

6.1.497 The Constitution places the responsibility on the government to ensure that such services are progressively expanded to all, within the limits of available resources. Municipalities are regarded as custodians of public funds and consequently, they have been tasked with utilising these resources to address the basic needs of local communities, notably infrastructure, electricity, water, refuse removal and the spatial development of localities.

6.1.498 Section 73 of the Municipal System Act requires municipalities to comply with the requirements of the Constitution by meeting the basic needs of the population by encouraging resident development and guaranteeing that all local residents have at least access to the minimum level of basic municipal services.

6.1.499 The Act defines basic municipal services as *"services that are necessary to ensure an acceptable and reasonable quality of life for the community members, which, if not provided, would endanger public health, public safety, or the environment".* Therefore, repairing and maintaining potholes, streetlights, or other infrastructure forms part of the basic municipal services to be delivered by the municipality.

6.1.500 Infrastructure is regarded as the cornerstone of social upliftment, public health and safety and is indispensable for economic development through the establishment of properly serviced premises. Therefore, the interconnectedness of a maintenance culture and resource allocation is important in determining the quality of service delivery.

6.1.501 Inadequate maintenance practices/responses increase budgets for maintenance faults, potentially diverting resources from essential service

delivery initiatives. Moreover, value-based maintenance practices prioritise resource allocation to critical areas, enhancing service delivery by ensuring that resources are efficiently utilised where they are most needed.

Revenue collection/Lease agreements

6.1.502 The Public Protector established that a significant number of tenants at CoCT-managed residential facilities, including Langa Old Flats, occupy units without signed lease agreements. The functionaries of CoCT submitted in their response that they entered into Lease Agreements with a small number of Langa Flats residents and others refused to sign the leases.

6.1.503 CoCT acknowledged that of the seven hundred and five (705) tenants, only one hundred and eighteen (118) have signed leases, while five hundred and eighty seven (587) remain unsigned. It attributed this to tenant reluctance, historic administrative weaknesses, and debt recovery challenges. The absence of formal lease agreements has created uncertainty regarding rights and obligations, impaired revenue collection, and undermined enforcement of municipal housing policies. As a result, it is unable to effectively collect rental revenue from residents occupying the flats because they refused to sign lease agreements with CoCT, however, section 96(a) of the Municipal Systems Act obliges functionaries of CoCT to collect all monies that are due and payable.

6.1.504 In law, this failure constitutes maladministration and is inconsistent with constitutional and statutory duties. Section 26(1) of the Constitution guarantees everyone the right to have access to adequate housing, while section 26(2) obliges the State to take reasonable legislative and other measures, within available resources, to progressively realise this right. Municipalities, as the local housing authority, are further bound by section 152(1)(b) of the Constitution to ensure the provision of services in a

sustainable manner, and by section 152(1)(d) to promote a safe and healthy environment.

6.1.505 Section 3(2) of the Housing Act, 1997, requires municipalities, as part of the national housing development process, to “take all reasonable and necessary steps” to ensure access to adequate housing, including the promotion of conditions that are economically and socially sustainable. Lease agreements are an essential tool in this process. They define the rights and responsibilities of both the municipality and tenants, provide legal certainty for occupancy, and secure revenue streams necessary for the maintenance and upgrading of housing facilities.

6.1.506 In terms of section 2(1)(a) of the Rental Housing Act, 1999, government at all levels is obliged to promote a stable and growing rental housing market that progressively meets the needs of the poor. Section 5(1) of the Act further requires all lease agreements in respect of dwellings to be in writing. Failure to conclude written leases with tenants, constitutes non-compliance with this statutory requirement. In the absence of enforceable agreements, both tenants and the municipality are deprived of legal protections, tenants’ risk unlawful evictions, while the municipality is hamstrung in enforcing payment of rentals and ensuring proper use of housing facilities.

6.1.507 Furthermore, section 73(2) of the Municipal Systems Act, compels municipalities to ensure that services are provided in a manner that is equitable, accessible, and financially sustainable. Financial sustainability is jeopardised where municipalities cannot recover rental income due to unsigned leases, which in turn compromises their ability to maintain and improve housing infrastructure.

6.1.508 The continued occupation of municipal housing, without signed leases also undermines the principles of accountability, responsiveness, and transparency entrenched in section 195(1) of the Constitution. Without written agreements, there is no transparent framework to regulate occupancy, enforce responsibilities, or resolve disputes fairly.

6.1.509 The Municipal Systems Act provides that all municipal councils must adopt and implement a tariff policy on the levying of fees for municipal services that are provided by the municipality itself or by way of service delivery agreements.

6.1.510 The Act further provides that the mentioned tariff policy must reflect at least certain minimum principles. These minimum requirements are that the users of municipal services should be treated equitably in the application of tariffs; the amount individual users pay for services should generally be in proportion to their use of that service; and poor households must have access to at least basic services.

6.1.511 Should CoCT be unable to document occupancy, survey or render similar services within its own resources in terms of section 79 of the Municipal Systems Act, it can outsource this service to an external service provider as allowed by section 80 of the Municipal Systems Act. In this regard CoCT has alternative mechanisms to put in place in order to collect revenue that is due by evoking section 80 of the Municipal Systems Act, should it become difficult for CoCT to collect revenue using its own resources.

6.1.512 For numerous municipalities, the challenge is significantly exacerbated by a high level of poverty and minimal capacity to generate revenue. Consequently, they depend heavily on grant funding, particularly from the national government to fulfil their developmental responsibilities. In certain instances, municipalities face unrealistic expectations to achieve extensive outcomes

despite having very limited capacity and financial resources. Additionally, it is important to recognise that they are the level of government that is most directly connected to the populace.

6.1.513 The principle adduced from the case of *Grootboom* is that some services are dependent on the availability of resources, however, unavailability of resources does not exempt CoCT from performing or rendering the service as it is incumbent on CoCT to put measures or mechanism in place that would assist in the fulfilment of its constitutional obligations and perform them diligently and without delay as the Court held on the case of City *of Johannesburg Metropolitan Municipality v Blue Moonlight Properties*.

6.1.514 Effective and efficient municipal financial management is critical to ensuring value for money in the use of public resources. Sound financial management practices are, therefore, essential for the long-term sustainability of municipalities in South Africa. These practices underpin the process of democratic accountability and good governance. Poor financial management is the cause of the misdirection of resources and it increases the risk of corruption.

6.1.515 The residents of Langa Flats raised concerns regarding the failure by CoCT officials to sign Lease Agreements. The housing units at Langa Flats have been leased to the residents in accordance with the agreement established with the Provincial Department of Human Settlements following their transfer to CoCT. The inability of CoCT to transfer the flats to residents, despite the commitment made by the Provincial Government that once the flats are transferred to CoCT, they will subsequently be transferred to the residents has left them uncertain about the legal status of their continuous occupancy of the housing units.

6.1.516 The Executive Mayor, Mr Hill-Lewis stated during the inspection by the Public Protector that he will pursue the matter of Lease Agreements with the appropriate official from CoCT. He further stated that an audit of the residents of Langa Flats, distinguishing between those with Lease Agreements and those without, along with CoCT's strategy to ensure that all tenants possess Lease Agreements; will be undertaken. He assured the residents that he would provide additional details regarding the budget allocated to Langa Flats after consulting with the responsible official.

6.1.517 He further indicated that Thubelisha Homes and Servcon acted as implementing agents responsible for the identification and allocation of beneficiaries to the housing units in September 2006. In June 2007, residents initiated a rent strike against CoCT, citing Thubelisha Homes' failure to repair defects. The Langa Flats project faced numerous challenges and was ultimately transferred to CoCT by the Department of Human Settlements, leaving several issues unresolved.

6.1.518 There are approximately seven hundred and five (705) units in total, and the officials responsible for overseeing the handover process have departed from the CoCT. Consequently, alternative sources of information are being sought to address the ongoing challenges.

6.1.519 In 2015, CoCT's Public Housing Unit carried out an occupancy survey and established Lease Agreements with one hundred and forty three (143) occupants. The remaining five hundred and sixty two (562) occupants declined to cooperate, claiming, among other reasons, that they had been assured the housing units were intended for rent-to-buy arrangements. As a result, they were unwilling to enter into rental agreements and preferred to purchase the units and undertook to respond to several complaints raised by residents.

6.1.520 Langa Flats through tender number 135/2021/22, which includes among other matters, verification of the initial allocation list to ascertain the original beneficiaries, perform an occupancy survey to validate the specific unit occupied by the resident against the original allocation list, undertake a feasibility study regarding the current design and typology of the housing units to determine compliance with construction legislation, and evaluate the sale and registration processes in accordance with the Sectional Title Scheme programme, as regulated by the Sectional Title Act 95 of 1986 and the Sectional Title Scheme Management Act, 2011.

6.1.521 The Constitution contains justiciable socio-economic rights and section 26 of the Constitution enshrines everyone's right to have access to adequate housing. According to the UNCESCR the right to have access to adequate housing should not be interpreted narrowly. Rather, it should be seen as the right to live somewhere in security, peace and dignity and contain freedoms which includes, security of tenure amongst others.

6.1.522 Security of tenure refers to the right of tenants using property to continue their occupation even after the lease term has expired. This right is designed to give tenants continuity and offer them significant protection. It also sets out specific grounds upon which a landlord can oppose the renewal of the lease.

6.1.523 The security of tenure provision is vital as it allows tenants, *inter alia*, to negotiate the terms of a new lease instead of vacating the premises at the end of their current tenancy and protects them from being evicted without legitimate reasons.

6.1.524 The Constitutional Court has acknowledged in relation to the right of access to adequate housing rights in the *Grootboom* case, that the right to housing has been interpreted in the light of other constitutional provisions on equality,

dignity, life, right to just administrative action, access to land, right to health care, food, water and social security, amongst others.

6.1.525 The Constitutional Court held that, "*the rights in our Bill of Rights are inter-related and mutually supporting. There can be no doubt that human dignity, freedom and equality, the foundational values of our society, are denied those who have no food, clothing or shelter,"* adding that: The right of access to adequate housing cannot be seen in isolation. There is a close relationship between it and the other socio-economic rights. Socio-economic rights must all be read together in the setting of the Constitution as a whole.

6.1.526 In the response from the Executive Mayor Hill-Lewis dated 09 July 2022 and CoCT response letter dated 07 February 2023 respectively, it is stated that an occupancy survey was to be conducted to determine which housing unit is allocated to which tenant, *"with an intension to enter into lease agreements if they qualify if not COCT processes will apply".* (*sic*)

6.1.527 Executive Mayor Hill-Lewis further stated that CoCT is also focused on enhancing the provision of housing opportunities in strategically located areas, necessitating targeted structural support and a more defined strategic and operational connection among essential human settlement functions, including formal housing delivery, upgrades to informal settlements, rental housing, and backyard services.

6.1.528 However, the Public Protector has not been provided with evidence reflecting the outcome of the occupancy survey and/or Lease Agreements with the tenants. The residents interviewed at block J1 and J3 during a follow-up *inspection in loco* on 30 January 2025, confirmed to the Investigation Team that they have not signed Lease Agreements with CoCT. Residents were also not aware of any occupancy survey that was conducted by CoCT.

6.1.529 In its response to the Notice, CoCT stated that an occupancy survey was conducted in 2020 and CoCT endeavour to conduct another occupancy survey. The results of the occupancy survey will assist CoCT to determine the way forward.

6.1.530 The right of access to adequate housing in South Africa is premised on the protection from eviction. Section 26(3) of the Constitution protects everyone from being "*evicted from their home, or having their home demolished, without an order of court made after considering all the relevant circumstances*" and provides that *"no legislation may permit arbitrary evictions".*

6.1.531 The Lease Agreements are designed to ensure the realisation of this right of protection under section 26(3), to limit homelessness by respecting, protecting, promoting and fulfilling the right to access adequate housing. The legislation was enacted, amongst other things, to improve the conditions of occupiers of premises and to afford them substantive protection and remedies in instances of a violation of this right.

6.1.532 In *Grootboom*, the Court held that there is a close relationship between the right of access to adequate housing and the other socio-economic rights. The Court further held that a *"right of access to adequate housing,"* as distinct from the *"right to adequate housing"* implies that housing entails more than just *"bricks and mortar"* and that for a person to have access to adequate housing, they need to have access to land, appropriate services like water and sewage removal and the house.

6.1.533 The constitutional values of nurturing and upholding high standards of professional ethics effectively and proficiently for utilising resources, responding to people's needs and holding public administration accountable are enshrined in section 195 of the Constitution.

6.1.534 Municipal authorities are bound by the values and principles in section 195(1) of the Constitution and section 6 of the Municipal Systems Act, which places a duty on municipal administrations to promote the values and principles in section 195(1) of the Constitution and be responsive to the needs of the local community.

6.1.535 In this instance, the security of tenure is vital since it primarily offers tenants or the residents of Langa Flats protection from being evicted without legitimate reasons or negotiate the terms of a new lease instead of vacating the premises at the end of their tenancy. Therefore, in the absence of Lease Agreements with CoCT, the residents of Langa Flats are unaware of the terms governing their occupancy.

6.1.536 Therefore, the failure by CoCT to conclude the Lease Agreements with the residents of Langa Flats or to inform them about the verification process or survey has the potential to compromise the security of their tenure in the flats they occupy and protection from being arbitrarily evicted.

6.1.537 Executive Mayor Hill-Lewis stated that the Public Housing Department of the CoCT collaborated with the Department of Human Settlements and the Communication and Corporate Unit will implement a range of awareness and educational initiatives. These programs, which were promoted through various media channels, addressed several critical issues, including campaigns on rental payments, the consequences of vandalism on CoCT's budget and infrastructure, the problem of sewerage blockages caused by foreign objects, illegal dumping, and efforts to promote water conservation.

6.1.538 In a response from the CoCT and with reference to a meeting held between the Public Protector and the Executive Mayor Hill-Lewis held on 11 November 2025, the Public Protector acknowledged that should the CoCT pursue

regularisation of the current occupants of the flats this may result in large scale eviction of occupants who do not qualify for tenancy under the current process.

6.1.539 At this stage the CoCT is limited to exploring alternative methods for regularisation, details which are still unclear. However, should these efforts fail the CoCT will be required to follow regularisation through existing policies and procedures.

6.1.540 The CoCT indicated that the Public Housing Department is currently working on the regularisation initiatives, if approved, this would enable non-qualifying tenants to be regularised based on the newly established criteria, where after leases can be formalised with the non-qualifiers.

6.1.541 The evidence indicates that CoCT has a C3 System that enables residents to report their needs for services or to lodge complaints. CoCT cannot raise non-reporting or utilisation of the C3 System by residents of Langa and Khayelitsha as the basis on which it was not aware of the service needs of the two townships.

6.1.542 These challenges have been brought to the attention of CoCT during the Public Protector's two (02) roadshows and further in various meetings held between the residents, CoCT officials and the Investigation Team. Residents of Langa and Khayelitsha cannot be said to have access to at least the minimum level of basic municipal services while they are exposed to burst pipes and spilling sewerage into the street on a daily basis.

6.1.543 The inability of the functionaries of CoCT to enter into Lease Agreements, repair the sewerage system, adequately attend to complaints lodged by Langa and Khayelitsha residents, is in contravention of the obligation imposed by section 6 of the Municipal Systems Act and not aligned with the provisions of

section 195(1)(e) and (g) of the Constitution.

Clean and healthy environment

6.1.544 The residents of Langa Flats have faced considerable deficiency in the cleaning of shared spaces, a duty that falls under the jurisdiction of CoCT. As a result, the residents have been forced to bear the costs of maintaining these communal areas. On Moses Mabhida Street, residents reported that the waste dumpster frequently overflows before the CoCT truck arrives for waste collection. Meanwhile, on Charles Mukwena Street, residents stated that littering is a daily occurrence, posing a health hazard to the community, especially, the children who play in these areas.

6.1.545 The Constitution provides that all municipalities must strive, within their financial and administrative capacities, to achieve the objectives of a democratic and accountable government, the provision of services in a sustainable manner, social and economic development, safe and healthy environment and community involvement in local government matters.

6.1.546 CoCT has a duty in terms of section 73 of the Municipal Systems Act to, *inter alia,* give priority to the basic needs of the local community and ensure that members of the local community have access to at least the minimum level of basic municipal services. It is the duty of the functionaries of CoCT to provide services relating to collection of waste and clean the environment to ensure that there is a safe and healthy environment for the community. The evidence before the Public Protector indicates that the residents of Langa Flats contribute one hundred Rand (R100) per household to obtain services of a person to clean the common areas of the flats, which is the duty of the functionaries of CoCT.

6.1.547 The residents raised this concern in the presence of the Mayor, who also admitted that the CoCT was not cleaning the common areas of the flats due to a number of factors. Wherein the CoCT admits that it is not doing what it is required to do and the area looked cleaned, the obvious thought is that residents are cleaning the area themselves which should not have been the case.

6.1.548 Local government must work to create a safe and healthy environment for residents. This includes promoting public safety, ensuring access to healthcare services, and implementing measures to protect the environment. This contributes to the vision of a democratic, accountable, and developmental local government system by prioritising the well-being and safety of local communities, as well as environmental sustainability.

6.1.549 During the inspection in loco on 09 December 2025, it was observed that a skip has been placed in front of the Nomonde Play Centre where dirt is collected every second day of the week, i.e. Mondays, Wednesday and Fridays. EPWP workers were appointed and would be signing their contracts on 10 December 2025. The EPWP workers have been appointed for area cleaning in general.

Access to Primary Health Care Services

Westridge Clinic

6.1.550 CoCT characterises Westridge as a small facility with limited patient load, justifying a weekly doctor visit, the absence of a psychologist, mitigated by a mental-health nurse and referral pathways, and a lean security complement comprised of between one to two guards and three on Wednesdays. It argues CCTV is unaffordable and “non-essential,” asserts smoke detectors are being

procured in 2024/25, undertakes to inspect emergency exits, and states that a power-backup solution will be “explored,” while cold-chain risks are addressed by relocating medicines to nearby facilities during load-shedding.

6.1.551 Legally, the right of access to healthcare services enshrined in section 27 of the Constitution requires reasonable measures that make care effectively accessible, especially where immediate risks to health exist. Cost-containment cannot justify leaving foreseeable security and safety risks unmitigated at a public health establishment. The Municipal Systems Act section 73(2) further requires services to be equitable, accessible, efficient and financially sustainable, which means budgeting choices must still yield a baseline of safety and reliability for users.

6.1.552 The investigation’s observations that there is no CCTV despite repeated breach attempts; no smoke detectors (including in the records room); poorly marked emergency exits; no generator/UPS; and manual files, reflect deficits against workplace and public safety duties under the OHS Act General Safety/Fire provisions (clear, rapidly openable emergency egress; marked escape routes) and the National Building Regulations/SANS 10400-T (escape doors/routes and fire protection). CoCT’s “small facility” framing does not displace these minimum safety duties.

6.1.553 While CoCT acknowledges these risks, it however, shifts it to operational contingency rather than prevention. Good Pharmacy Practice (SAPC) and medicines regulations require proper storage, temperature monitoring, and pharmacist oversight of storage/dispensing systems, expectations that contemplate contingency plans for power failures and documented temperature control, not *ad hoc* relocation. Where vaccines or thermolabile items are held, national guidance calls for a written, posted contingency plan at every vaccine fridge. Merely “exploring” backup power, without timelines,

falls short of reasonable measures in a load-shedding environment.

6.1.554 CoCT downplays digitisation as “non-essential,” yet POPIA imposes a duty to safeguard sensitive health information irrespective of medium. Keeping large volumes of paper records in a room without smoke detection increases the risk of loss/destruction and unlawful access, contrary to section 19 of POPIA, which provides for security safeguards, until Elula or equivalent controls deliver equivalent or better protections.

6.1.555 CoCT indicated progress on the procurement of detectors; door repairs; referral pathways, but its stance on CCTV, egress marking, and backup power underestimates binding safety obligations and cold-chain standards. Its approach remains partially reasonable but legally insufficient until concrete timelines and minimum safety baselines regarding the installation of fire detection, marked egress, reliable cold-chain contingency with power resilience, are in place.

Rocklands Clinic

6.1.556 CoCT again leans on “small facility/limited patients” to justify a weekly doctor, a pharmacist only one day/week (with a pharmacist assistant another day), one guard, no CCTV, and deferred digitisation; smoke detectors are “being procured,” and exit inspections are planned.

6.1.557 In terms of section 27 of the Constitution, the question is whether the staffing and pharmacy cover are reasonable in implementation, not merely in conception. Pharmacy-related functions, storage, security, dispensing records, expiry-date control, must occur under a responsible pharmacist’s supervision and in line with Good Pharmacy Practice. Where on-site pharmacist presence is intermittent, documentary systems, supervision arrangements, and

temperature/stock controls must be robust enough to maintain safety and legal compliance throughout the week. CoCT's submission does not disclose such controls; the mere assertion that a daily pharmacist is "not necessary" is inadequate in law, absent evidence of compliant supervision systems and compliance with the applicable laws.

6.1.558 Similar inadequacies in Westridge Clinic were also identified in Rocklands. There is no CCTV, no smoke detection. Occupational Health and Fire standards and SANS 10400-T, apply irrespective of size. Therefore, repeated reliance on "budget constraints" cannot negate minimum egress marking and basic detection at a public facility.

6.1.559 Digitisation is not itself a constitutional entitlement, but safeguarding patient information, whether paper or electronic, is required in terms of section 19 of POPIA and must be adhered to, at least, until Elula closes the risk gap.

6.1.560 The Public Protector acknowledge that the staffing model in Rocklands Clinic may be defensible if paired with compliant pharmacy governance and safety measures, however, these are not demonstrated on the present record. Safety and information-protection gaps persist and should be rectified within specified timeframes.

Town Two Clinic

6.1.561 The Investigation Team recorded significant vacancies at Town Two Clinic, three (03) clinical nursing practitioners and four (04) professional nurses, rising mental-health demand, non-functional CCTV, paper records, and reliance on one auxiliary social worker weekly. In its response, CoCT indicated the recruitment timelines to fill these posts in a staggered approach, with the appointment of one clinical nursing practitioner anticipated on 01 June 2024,

and further clinical nursing practitioners starting 01 January 2025. At least one Professional nurse was appointed on 01 June 2024 and the appointment of clerical staff in September/November 2024 and other posts in November 2024.

6.1.562 CoCT concedes that there is no psychologist at Rocklands Clinic but highlights the auxiliary social worker's role. It admits CCTV vandalism and deprioritises repairs pending renovations, arguing CCTV is not essential for access/safety.

6.1.563 In this instance, CoCT presented concrete measures, with specified timeframes, as a signal of a reasonable plan to restore capacity, aligning with the progressive realisation of the rights in section 27 of the Constitution and the reasonableness standard for socio-economic rights. However, deprioritising security restoration where vandalism has already occurred is difficult to reconcile with section 152(1)(d) of the Constitution, which requires the state to provide a safe and healthy environment and Occupational Health and Safety/Fire obligations.

6.1.564 A non-functional CCTV system in a high-risk context may not, by itself, prove a breach, but coupled with the acknowledged security incidents across the network, it weighs toward unreasonable risk management, particularly, in the absence of the implementation of other alternative safety measures, such as increased patrols and access-control upgrades. Therefore, repairing vandalised CCTV or substituting equivalent risk controls, should not await renovation and minimum safety standards must be maintained continuously.

Matthew Goniwe Clinic

6.1.565 The Investigation Team noted heavy patient ratios of between 20 to 40, per nurse, weekly social worker, two vacant pharmacist posts, four guards, no CCTV, no smoke detectors, and paper files. CoCT contended that its records

show 15 to 20 patients per nurse, lists six professional nurses (one vacant; interviews scheduled for 13 November 2024), four CNPs (one via NPO), and NPO-funded social worker and basic pharmacist. It further submitted that smoke detectors will be procured in 2024/25 and averred that digitisation was non-essential pending Elula.

6.1.566 Even if CoCT's lower patient ratios are accepted, the combined picture, a burglary in October 2023, no CCTV, no smoke detection, paper records, may be in contravention of the Occupational Health and Safety/Fire and POPIA requirements. Where a burglary has occurred, reasonable measures to prevent recurrence are required, such as, access control, surveillance, or equivalent preventative solutions. A health facility, that has previously been burgled, without basic detection/surveillance for an extended period is *prima facie* inconsistent with ensuring a safe environment envisaged in section 152(1)(d) of the Constitution and with reasonable protection of sensitive records under section 19 of POPIA.

6.1.567 Furthermore, vacancies must be managed without compromising GPP storage/record-keeping obligations. While NPO-funded stopgaps are appreciated, in a concerted effort to mitigate the financial constraints, however, they do not relax statutory standards.

6.1.568 The Public Protector notes steps underway to address staffing challenges, but post-burglary security and basic fire detection should have also been prioritised as continued paper-records storage, without at least fire detectors in place, heightens POPIA risk and undermines service resilience.

Elula Project (Digitisation/Information Governance)

6.1.569 CoCT highlights, in its response, a phased IT Modernisation (Elula) which is

an appointment system integrated with PREHMIS for partial e-records where clerks would capture data from paper files and clinicians will eventually enter data directly. At this stage, paper folders remain until the system and dependencies mature.

6.1.570 The Public Protector acknowledges that digitisation *per se*, is not a constitutional requirement and what is required is that health information be secured and available for care. Therefore, until Elula fully enables clinician-entered records and comprehensive e-capture, CoCT must ensure that paper records are safeguarded against loss, destruction and unauthorised access is prevented.

6.1.571 Progressive roll-out is acceptable if coupled with interim safeguards such as fire detection in filing rooms, restricted access, audit trails for file movement and clear timelines, in line with section 27 of the Constitution and section 73(2) of the Municipal Systems Act, which requires efficient and sustainable service arrangements.

6.1.572 The plan by CoCT is rational and phased, but interim risk controls over paper files (fire/smoke detection, access control, incident logging) are legally indispensable until Elula closes the gap.

6.1.573 On 18 March 2025, CoCT addressed correspondence to the Investigation Team, objecting to the short timeframe afforded to respond to the Notice issued in terms of section 7(9) of the Public Protector Act. CoCT contended that the truncated deadline rendered it procedurally unfair and placed the Municipality at a disadvantage in preparing a comprehensive response. On the same day, the Investigation Team engaged CoCT, assuring the Municipality that participation in a proposed meeting would not preclude it from submitting its written representations. Thereafter, on 28 March 2025, CoCT was reminded

by way of written communication that its response to the Notice remained due.

6.1.574 The CoCT requested an extension to submit its response, and the request was enabling the CoCT to submit its response on 11 April 2025. The request to submit information/response is regulated by *Rule 23(2)(d) of the Public Protector Rules* and therefore the request to respond within ten (10) days and the extension granted were in compliance with this rule.

6.1.575 The CoCT's concern regarding delay is noted. However, the delay was occasioned by the expanded scope of the systemic investigation, the need for further engagements and inspections, the receipt and analysis of additional information, and the requirement to afford implicated parties an opportunity to make representations before finalisation. The Public Protector did not rely solely on the CoCT's earlier position but considered subsequent correspondence, inspections, meetings and updated information obtained during the investigation. Accordingly, while the delay is regrettable, it does not on its own invalidate the findings, particularly where the evidence demonstrates that certain service delivery deficiencies persisted or required verification beyond the CoCT's initial response.

6.1.576 Following the joint *inspection in loco* conducted on 03 July 2025, the CoCT submitted additional response to the Investigation Team on 11 August 2025.

6.1.577 Having considered the submissions made by the functionaries of CoCT, together with the record of correspondence exchanged between the Investigation Team and the CoCT, it is evident that CoCT was formally notified of the Notice. On the same day, the Investigation Team engaged with the functionaries of CoCT regarding its concerns about the truncated timeframe and expressly assured the functionaries that, notwithstanding the scheduling of a proposed meeting, it would not be precluded from submitting its written

representations. Furthermore, on 28 March 2025, CoCT was reminded in writing of its obligation to submit a response within the stipulated timeframe.

6.1.578 Moreover, while municipalities are entitled to raise financial and resource constraints, such considerations do not absolve them from the constitutional obligation imposed by section 152 of the Constitution to ensure the provision of sustainable municipal services to communities nor diminish their obligation to co-operate with other spheres of government in accordance with section 41 of the Constitution.

6.1.579 More importantly, such arguments cannot serve to negate the Municipality's duty to address ongoing prejudice to residents' rights to housing in terms of section 26, healthcare services as envisaged in section 27 and an environment not harmful to health or well-being guaranteed in section 24 of the Constitution, or extinguish the obligation to progressively realise socio-economic rights within its functional areas of competence. The sequence of engagement indicates that the Public Protector acted in good faith and provided CoCT with a fair opportunity to be heard. Accordingly, the Public Protector finds that CoCT's procedural objection is without merit.

6.1.580 Furthermore, CoCT argued that the investigation improperly consolidated multiple complaints, placed unreasonable demands on municipal resources, and was pursued under timelines that undermined the principles of cooperative governance enshrined in Chapter 3 of the Constitution. While the Public Protector is mindful of these objections, the investigation is guided by the constitutional and statutory mandate of the Public Protector. In terms of section 182(1)(a)–(c) of the Constitution, the Public Protector is empowered to investigate maladministration in state affairs, to report on such conduct, and to take appropriate remedial action.

6.1.581 The Public Protector Act 23 of 1994, particularly section 7(9), further authorises the Public Protector to notify implicated organs of state of intended findings and to afford them an opportunity to respond before finalising a report. This process is consistent with the *audi alteram partem* principle and with the procedural fairness requirements of section 3 of the Promotion of Administrative Justice Act, 2000 (PAJA).

6.1.582 CoCT's complaint that the Notice is "loaded with different issues" misapprehends both the constitutional architecture of municipal governance and the Public Protector's systemic investigative mandate.

6.1.583 Municipal service delivery is inherently integrated, and interconnected housing, health services, infrastructure, electricity, water, sanitation, and waste management do not operate in administrative silos but form a cohesive tapestry of constitutional obligations that collectively determine whether residents can live with dignity. The Constitution recognises this interconnectedness by imposing holistic duties on municipalities under section 152(1)(b) and (d) to ensure the provision of services to communities in a sustainable manner and to promote a safe and healthy environment for all residents.

6.1.584 These constitutional imperatives are operationalised through section 73(2) of the Municipal Systems Act, which mandates that municipal services be equitable, accessible, affordable, and financially sustainable while promoting the efficient use of scarce resources. When systemic failures emerge across multiple service areas within the same communities (as evidenced in Langa Flats and Khayelitsha), the Public Protector's constitutional duty under section 182(1)(a) of the Constitution, is to investigate conduct that results in impropriety or prejudice extends naturally to examining the totality of municipal dysfunction affecting residents' fundamental rights.

6.1.585 The complexity of municipal governance does not fragment the Public Protector's jurisdiction but rather underscores the necessity for comprehensive investigation where interconnected service failures collectively undermine residents' constitutional rights to adequate housing, healthcare, and a safe environment. To artificially compartmentalise such investigations would frustrate the constitutional imperative of systematic accountability and leave residents without effective recourse for addressing the cumulative impact of municipal failures on their daily lives and human dignity."

6.1.586 While CoCT raises legitimate concerns about budgetary limitations, the Constitutional Court has made it clear in matters such as *Grootboom* and *Minister of Health v Treatment Action Campaign* (No 2) 2002 (5) SA 721 (CC) *("Treatment Action Campaign No 2"*), that resource constraints do not absolve the State from progressively realising socio-economic rights, nor from taking reasonable steps to remedy ongoing violations.

6.1.587 While it is constitutionally accurate that Eskom serves as the designated electricity distributor in these areas, the Public Protector acknowledges that CoCT acted in terms of its constitutional duties relating to residents' access to electricity in facilitating engagements with Eskom when residents were relocated as the Constitution establishes a system of cooperative governance under section 41(1)(h), which requires all spheres of government to coordinate their actions and avoid prejudice to the welfare, safety, and security of communities.

6.1.588 The Municipal Systems Act reinforces this integrated approach by requiring municipalities under section 73(2) to provide services in an equitable, accessible, and sustainable manner while promoting efficient resource utilisation.

6.1.589 Moreover, sections 152(1)(b) and (d) impose direct constitutional obligations on municipalities to ensure service delivery sustainability and promote safe, healthy environments for all residents. These duties are not contingent upon municipalities being the direct service provider but extend to coordinating with relevant authorities to secure residents' constitutional rights. CoCT's duty to educate communities about electrical safety hazards, coordinate with law enforcement regarding illegal connections, and engage proactively with Eskom demonstrates that cooperative governance creates positive obligations, not jurisdictional immunity.

6.1.590 The CoCT's invocation of financial limitations and assertions regarding the impracticality of immediate implementation of safety measures - including CCTV installation, smoke detection systems, and comprehensive housing infrastructure upgrades - reflects legitimate operational realities within South Africa's constrained municipal fiscal environment. The Public Protector acknowledges this, consistent with the Constitutional Court's recognition in *Grootboom*, that municipalities operate within finite budgetary frameworks and that resource scarcity constitutes a material factor in determining the scope and pace of service delivery interventions.

6.1.591 However, the constitutional architecture establishes that resource constraints constitute a contextual consideration in determining reasonableness, not an absolute barrier to progressive realisation of fundamental rights. As the Constitutional Court emphasised in *Grootboom* and reinforced in *Treatment Action Campaign No 2*, the state's obligation to take 'reasonable legislative and other measures, within available resources, to achieve progressive realisation' of socio-economic rights requires demonstrable planning, prioritisation, and measurable progress towards constitutional compliance not indefinite deferral pending ideal fiscal conditions.

6.1.592 The doctrine of progressive realisation demands that municipalities demonstrate reasonable steps within existing resources, while developing coherent plans for enhanced compliance as resources become available. This constitutional standard recognises fiscal realities while preventing resource constraints from becoming a perpetual justification for inaction where residents continue to experience violations of their rights to adequate housing under section 26, healthcare services under section 27, and environments not harmful to their health and well-being under section 24.

6.1.593 CoCT's detailed exposition of budgetary cycles, procurement protocols, and multi-year capital planning demonstrates institutional awareness of fiscal governance requirements under the Municipal Finance Management Act. The Public Protector commends such systematic approach to financial stewardship. Nevertheless, the Public Protector notes that the safety deficiencies identified during earlier inspections (including concerns relating to fire detection systems in healthcare facilities, emergency egress route markings, and security infrastructure following reported security incidents) created immediate and foreseeable risks to life and health at the time they were observed. Although certain deficiencies were later reported or observed as attended to during the joint inspection, their prior existence and the period for which they persisted remain relevant to the assessment of whether the CoCT responded timeously, adequately and in accordance with its constitutional and statutory obligations.

6.1.594 The Constitutional Court's jurisprudence establishes that reasonableness encompasses both the means employed and the temporal framework for implementation. Where municipalities identify legitimate resource constraints affecting comprehensive remediation, constitutional compliance may be achieved through phased implementation that prioritises life-safety measures, demonstrates measurable progress within available resources, and provides

transparent timelines for progressive enhancement aligned with budget cycles.

6.1.595 Accordingly, while CoCT's resource limitations constitute valid considerations in determining appropriate remedial timelines, they cannot indefinitely suspend the municipality's constitutional duty to take reasonable measures whether through interim solutions, reprioritisation of existing allocations, or external funding mechanisms to address ongoing violations of residents' fundamental rights to dignity, safety, and access to basic services. The constitutional standard requires evidence of reasonable planning and progressive action within available means, not proof of unlimited resources before constitutional obligations become enforceable.

6.1.596 The CoCT’s characterisation of the Public Protector’s remedial directives as constituting institutional 'overreach' that improperly prescribes operational minutiae and compels unauthorised expenditure, reflects a fundamental misapprehension of both the Public Protector's constitutional mandate and the carefully calibrated nature of outcome-based remedial action.

6.1.597 The Constitutional Court's landmark decision in *Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* definitively established that remedial action taken by the Public Protector carries binding legal force unless reviewed and set aside by a competent court, provided such action remains rational, proportionate, and within constitutional jurisdiction. This binding authority is not diminished by municipal assertions of operational inconvenience or fiscal preference but is constrained only by the constitutional requirements of rationality, legality, and jurisdictional propriety.

6.1.598 The remedial measures articulated in this report have been meticulously crafted to embody outcome-based directives rather than prescriptive

operational mandates. They do not usurp CoCT's executive discretion in determining the specific methodologies, procurement processes, or administrative mechanisms through which constitutional compliance is achieved. Instead, they establish constitutionally mandated performance standards that respect municipal autonomy in implementation while ensuring accountability for results that secure residents' fundamental rights.

6.1.599 These directives are inherently cooperative in nature, recognising the complex intergovernmental environment within which municipalities operate, while maintaining the constitutional imperative that resource constraints cannot indefinitely defer compliance with justiciable socio-economic rights. The Constitutional Court's jurisprudence in *Grootboom* and *Treatment Action Campaign* establishes that progressive realisation operates within available resources but requires demonstrable, reasonable measures toward constitutional compliance, not evidence of unlimited fiscal capacity before obligations become enforceable.

6.1.600 Crucially, the remedial action does not 'compel expenditure' in the sense of predetermining specific budget allocations or circumventing municipal financial governance frameworks. Rather, it requires CoCT to discharge its existing constitutional obligations through reasonable measures that may necessarily involve resource allocation, a distinction fundamental to understanding the relationship between constitutional duties and municipal fiscal autonomy. The Constitution does not permit municipalities to invoke budgetary constraints as permanent immunity from constitutional compliance, particularly where residents' rights to healthcare access, housing adequacy, and environmental safety remain systematically violated.

6.1.601 The proportionality principle underlying these remedial measures ensures they are calibrated to address the specific violations established through

comprehensive investigation, rather than imposing blanket requirements disconnected from evidenced harm. Where CoCT has demonstrated legitimate procurement timelines or renovation schedules, the remedial action incorporates phased implementation that respects operational realities while maintaining accountability for progressive compliance.

6.1.602 Moreover, the Public Protector's constitutional mandate under section 182 specifically empowers the taking of 'appropriate remedial action' to redress conduct resulting in impropriety or prejudice. This authority necessarily encompasses directives that require state institutions to align their conduct with constitutional obligations not through operational micromanagement, but through outcome-focused accountability that preserves institutional discretion while ensuring constitutional rights protection.

6.1.603 The separation of powers doctrine, properly understood, does not insulate municipal decision-making from constitutional accountability but rather establishes that such accountability must operate through constitutionally appropriate mechanisms. The Public Protector represents precisely such a mechanism as an independent institution empowered to investigate maladministration and direct remedial measures that restore constitutional compliance without usurping executive or legislative functions.

6.1.604 Therefore, CoCT's 'overreach' contention fundamentally misconceives the constitutional architecture of accountability, which establishes that while municipalities retain operational discretion in achieving constitutional compliance, they cannot invoke such discretion to avoid compliance altogether. The remedial action strikes the constitutionally mandated balance between respecting municipal autonomy and ensuring that residents' fundamental rights receive effective protection through measurable, time-bound, and accountable implementation of constitutional obligations."

6.1.605 Mr Bredell was issued with the Notice in terms of section 7(9)(a) of the Public Protector Act, 1994, in his capacity as the Western Cape Provincial Minister of Local Government, on account of his oversight role over municipalities under the Constitution and the Municipal Systems Act. The Public Protector's draft findings included proposed remedial action that requires his office to ensure oversight of CoCT and its functionaries in the implementation of remedial action.

6.1.606 While he committed to exercising his oversight role in line with his general constitutional obligations and also affirmed that the Western Cape Department of Local Government will comply with its monitoring and support responsibilities, ensuring municipalities perform their statutory and executive functions, he raised concern about the Public Protector prescribing how and when he should invoke section 139 intervention powers.

6.1.607 Mr Bredell views this as an intrusion into the executive domain, since section 139 intervention is a discretionary power reserved for provincial executives, a measure of last resort ("drastic measure"), only to be invoked in clear, exceptional cases of municipal failure. He also contents that, incompatible with the constitutional principle of separation of powers, the Public Protector's remedial directives effectively compel him to intervene whenever CoCT fails to adhere to remedial action. He stresses that non-adherence to a Public Protector directive by CoCT does not automatically warrant section 139 intervention, as such decisions require political, legal, and contextual considerations within the province's discretion.

6.1.608 Despite these reservations, Mr Bredell confirms that he will table the Public Protector's final report in compliance with section 133 of the Constitution, which obliges members of the executive to report to the provincial legislature. However, he clarifies the limits of this reporting obligation:

6.1.608.1 He can only account for matters within his control, provincial oversight and support functions; and

6.1.608.2 He cannot report on the municipality's actual progress in implementing remedial action, since that falls under the control of CoCT's Council and administration.

6.1.609 Mr Bredell's contention that he 'cannot report on the municipality's actual progress in implementing remedial action, since that falls under the control of CoCT's Council and administration' fundamentally misapprehends both the binding nature of Public Protector remedial action as established in *Economic Freedom Fighters v Speaker of the National Assembly and Others* and the positive constitutional duties imposed on provincial executives under sections 154(1) and 155(6) of the Constitution.

6.1.610 The Constitutional Court's definitive holding that remedial action carries binding legal force unless reviewed and set aside by a competent court does not create constitutional impossibilities but rather establishes accountability mechanisms that operate within existing governmental frameworks. While this binding authority does not extend to prescribing outcomes that would be unconstitutional, it empowers the Public Protector to direct office bearers to exercise their powers in a manner consistent with constitutional duties, including the positive obligation to monitor and support municipalities that section 155(6)(a) explicitly imposes on provincial governments.

6.1.611 The MEC's assertion that municipal implementation progress falls beyond his control directly contradicts the Constitutional Court's recognition in *Premier, Gauteng and Others v Democratic Alliance and Others* that provincial executives bear active oversight responsibilities requiring demonstrable efforts

to provide hands-on support and meaningful engagement with municipal performance. Section 154(1) mandates that provinces 'by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs,' while cooperative governance principles under section 41(1)(h) require all spheres of government to coordinate their actions to avoid prejudice to communities.

6.1.612 These constitutional imperatives create both the authority and the obligation for provincial executives to monitor municipal compliance with binding remedial action, not as direct controllers of municipal administration, but as constitutionally mandated oversight bodies responsible for ensuring that municipal failures do not indefinitely compromise residents' fundamental rights. The Public Protector's directive therefore operates squarely within the MEC's existing constitutional framework, requiring him to discharge positive oversight duties through rational assessment, documented consideration of intervention appropriateness, and transparent reporting to the Provincial Legislature mechanisms that respect executive discretion while ensuring constitutional accountability and preventing the structural complexities of intergovernmental relations from becoming barriers to residents' rights protection.

6.1.613 The Public Protector’s role is not to usurp discretionary executive powers, but to ensure accountability by requiring that discretion be exercised reasonably, lawfully, and in good faith. Section 154(1) requires that *provincial and national government “support and strengthen the capacity of municipalities to manage their own affairs*.” Section 155(6)(a) of the Constitution expressly requires provincial governments to “monitor and support” municipalities.

6.1.614 These provisions create a positive obligation, therefore the Minister cannot simply remain passive in the face of municipal maladministration identified by the Public Protector.

6.1.615 Furthermore, the intervention envisaged in section 139 of the Constitution is indeed a discretionary executive measure and does not compel the Minister to invoke section 139 in every instance of municipal non-compliance. However, the Public Protector may legitimately require the Minister to, *inter alia*:

(a) Consider whether intervention is appropriate if CoCT fails to comply;
(b) Record reasons for exercising or not exercising such intervention; and
(c) Report those reasons to the Legislature and to the PPSA for accountability.

6.1.616 This approach respects the discretionary nature of section 139 while ensuring transparency and accountability.

6.1.617 Section 41(1)(h) of the Constitution requires all spheres of government to "cooperate with one another in mutual trust and good faith" and to "assist and support one another."

6.1.618 In this spirit, the Public Protector is not prescribing the exact outcome of Mr Bredell's oversight (e.g., that he must invoke section 139), but rather ensuring that his constitutional duties of support, monitoring, and potential intervention are undertaken. The remedial action must be understood as requiring Mr Bredell to exercise his discretion within the constitutional framework, not as compelling a predetermined outcome.

6.1.619 The Public Protector's directive aligns seamlessly with the constitutional accountability framework established by section 133, which obliges Members of the Executive Council to furnish full and regular reports to their provincial legislature. While Mr Bredell cannot control CoCT's day-to-day implementation steps, he remains duty-bound to monitor municipal compliance, support remedial action, and consider intervention, when necessary, all of which must

be formally recorded and reported. Although section 139 intervention powers are inherently discretionary and not subject to automatic invocation, the Public Protector is expressly empowered to require Mr Bredell to:

(a) monitor and support CoCT in executing the remedial measures;
(b) formally consider, document, and justify any decision on intervention; and
(c) report these oversight activities both to the Provincial Legislature and to the Public Protector.

6.1.620 This approach preserves the Minister's executive discretion while ensuring transparent, constitutionally mandated oversight, thereby safeguarding the rights and dignity of affected residents against the risk of municipal inaction.

Conclusion

6.1.621 The evidence before the Public Protector revealed that despite the endeavours of the functionaries of CoCT to address some of the concerns raised by the residents, material shortcomings relating to the manner in which they ought to have addressed and resolved these service delivery concerns unfortunately still persist.

6.1.622 The evidence also revealed that human resource capacity constraints have been addressed, security challenges are being addressed. The other safety mechanisms for monitoring and protection devices at the clinics are still to be addressed.

6.1.623 While the CoCT intervention measures in Westridge, Rocklands, Town Two, and Matthew Goniwe, show some compliance and progress as evident in recruitment at some of the clinics and procurement, its position on CCTV, fire

detection, emergency egress, backup power, cold-chain resilience, and information security, remain partially non-compliant until backed by dated, minimum-standard commitments consistent with sections 27 and 152 of the Constitution, section 73(2) of the Municipal Systems Act, Occupational Health and Safety/Fire/SANS 10400-T, GPP/Medicines regulations, and section 19 of POPIA.

6.1.624 Regardless of size, the CoCT must maintain marked emergency egress, practicable fire detection, and reasonable security in all the clinics. Written contingency plans, monitoring, and alarm/alert measures for power failures in a country where load-shedding is foreseeable by having, at least, backup-power or equivalent resilience plan is a reasonable measure.

6.1.625 Until full digitisation, reasonable safeguards for paper records, especially where smoke detection is absent in filing rooms and burglary risks in line with section 19 of POPIA must be implemented.

6.1.626 The CoCT's inability to secure lease agreements with the majority of tenants at Langa Old Flats and other municipal housing projects raises significant concerns regarding administrative effectiveness and the fulfilment of its statutory and constitutional obligations. Persistent informal or irregular occupation undermines the municipality's capacity to manage housing resources efficiently, potentially to the detriment of complaint tenants and the long-term financial sustainability of the housing programme.

6.1.627 While tenant resistance presents a practical challenge, it does not relieve the CoCT from its obligations under the Rental Housing Act to secure written lease agreements, nor its duties under the Housing Act and Constitution to progressively realise the right to access to housing in a fair, transparent, and sustainable manner. In addressing these challenges, reasonable steps may

include sustained engagement campaigns, debt relief or restructuring initiatives, and, where appropriate, enforcement action consistent with due process.

6.1.628 The issue relating to the lease agreements is in the process of being addressed in that the CoCT is working on a regularisation initiative, and if approved, this initiative would enable the regularisation of tenants, who currently do not qualify, based on new qualifying criteria, where after leases can be finalised.

6.1.629 The evidence indicates that the CoCT has encountered significant difficulties in meeting its constitutional, statutory, and international obligations to ensure access to sufficient water for residents of SST-Marikana following their relocation. The apparent discrepancy between the CoCT's documented assertion of one hundred and forty three (143) taps and the objective findings of two *in loco* inspections (where no such taps could be located), points to a material gap between reported compliance and on-the-ground realities. This suggests not only challenges in service delivery but also a need for greater alignment between administrative records and physical implementation of binding legal duties.

6.1.630 Section 27 of the Constitution imposes a non-derogable obligation upon the State and its organs, including municipalities, to take reasonable steps to ensure that every person has access to sufficient water. This obligation is immediate in respect of ensuring at least a minimum core entitlement, without which the rights to life, dignity, and health are rendered illusory. The Water Services Act and Municipal Systems Act reinforce this duty by recognising potable water supply as a basic municipal service indispensable for public health and safety. The CoCT, as the designated water services authority, is not at liberty to defer, dilute, or shift responsibility for compliance.

6.1.631 The reliance on corrupted GIS data and the vague invocation of resource limitations is legally untenable. South African jurisprudence, particularly *Mazibuko and Others v City of Johannesburg and Others 2010 (4) SA 1 (CC)*, affirms that municipalities must demonstrate reasonable measures taken in good faith to progressively realise water rights.

6.1.632 The CoCT has previously not shown that any such measures were implemented to ensure that the relocated residents of SST-Marikana continued to enjoy the minimum levels of access to clean water which they previously had before relocation. Instead, residents have been left to rely on an illegal, self-connected communal tap, thereby being compelled to secure for themselves what is constitutionally and statutorily guaranteed. This is the very definition of a dereliction of duty by a municipality. However, the CoCT is committed to investigate the installation of additional taps to the relocated ten (10) families next to the Clinic and made the necessary applications for this already.

6.1.633 The fire incident of January 2025, in which seventy six (76) shacks were destroyed, further exposes the life-threatening consequences of inadequate water infrastructure. Without adequate and accessible water supply, residents are not only deprived of dignity and health but are also exposed to severe risks of preventable disaster, thereby compounding the violation of their fundamental rights.

6.1.634 Moreover, South Africa's obligations under the International Covenant on Economic, Social and Cultural Rights and the 2010 UN General Assembly Resolution affirm that water is a human right essential for life and all other rights.

6.1.635 The CoCT's difficulties in this regard could place the Republic at risk of non-

compliance with its international obligations, which, under section 39(1)(b) of the Constitution, must inform the interpretation and enforcement of the Bill of Rights. The absence of potable water at SST-Marikana raises serious concerns that extend beyond administrative oversight, resource constraints, or logistical challenges. It implicates fundamental constitutional rights and warrants careful scrutiny in light of the values of human dignity, life, and equality.

6.1.636 Following further inspections and meetings, the CoCT expressed its sincere regret and extended an apology for any inconvenience caused by the manner in which distances to taps were calculated, noting that the information had been based on available GIS data. Subsequent to an inspection conducted jointly with the Investigation Team, it was confirmed that there are currently six to seven toilets available for use by the ten relocated families, rather than only one as previously indicated.

6.1.637 While water and sanitation services are provided in accordance with National Norms and Standards wherever possible, the CoCT is, as previously stated, investigating the potential installation of additional taps and toilets for the ten families relocated adjacent to the Clinic. The necessary applications for this have already been submitted, although the provision remains contingent upon further investigations.

6.1.638 The CoCT is in the process of addressing the systemic deficiencies that were observed during the various inspections as they have a negative impact on the provision of basic municipal services and the level of healthcare services provided to the residents of Langa Flats and Khayelitsha townships.

6.1.639 The Public Protector concludes that by relocating the residents of Marikana to a new site without facilitating engagement with Eskom, the CoCT fell short of

its cooperative governance obligations and exposed residents to conditions that were, in some respect, less favourable. The CoCT's assertion that it has "no control" over illegal connections is, in the Public Protector's view, legally and practically insufficient. It retains responsibilities relating to education, coordination, and enforcement support aimed at preventing hazardous practices. The CoCT had a duty to engage Eskom, to mitigate the consequences of the relocation, and to take reasonable steps to protect residents from potential hazards**.**

6.1.640 Although the CoCT engaged with Eskom at the time of relocation, Eskom advised that the relocation site fell within an area lacking electricity supply points. This was attributed to the absence of existing network infrastructure, as the area had not been incorporated into Eskom's electrification planning at that stage and was not included in the relevant gazetting period for the financial year. Consequently, the relocated families remain without electricity, a situation that appears inconsistent with assurances previously provided by the CoCT.

SYSTEMIC CONSIDERATIONS

6.1.641 During the investigation, the Investigation Team identified the following systemic considerations affecting the delivery of municipal services:

Security

6.1.641.1 The clinics are in overly populated areas and the security measures put in place by the CoCT may not always be adequate due to budgetary constraints. In SST-Marikana the Investigation Team interacted with community members who volunteer to do patrols within their streets to help reduce crime. The CoCT can make use of these volunteers to patrol the streets in a more formal

coordinated manner linking them with its law enforcement.

Access to health care services

6.1.641.2 The clinics are primary care facilities that operate during the day and do not have resident doctors or operate around the clock. The health care users are aware of the days on which the doctor is available and there is information placed on the notice boards relating to emergency services. In the absence of a doctor there are professional and senior nurses to help clients and make referrals.

6.1.641.3 Health care users were also interviewed to determine whether the rotational availability of doctors impacted their access to health, the answer was a mixture of positive and negative. The Investigation Team also noted the relative proximity of the clinics to neighbouring hospitals. For example, Eastridge Clinic is about four (04) kilometres away from Mitchells Plain Hospital and the furthest clinic from the hospital is Rocklands Clinic at about seven (07) kilometres. It was further observed that Town Two Clinic is about two (02) kilometres away from Khayelitsha District Hospital and Mathew Goniwe Clinic is about four (04) kilometres away from the Hospital.

Waste management/Illegal dumping

6.1.641.4 Evidence before the Public Protector indicates that waste collection services are offered four (04) days a week at Langa flats and five (05) days a week in Khayelitsha. It is also observed that residents exacerbate this issue by dumping foreign objects into sewerage infrastructure which causes sewerage spills and illegal electrical connections which prevents the CoCT from timeously offering these services.

6.1.641.5 While there may not be guidelines available determining the distance that the designated dumping spot should be placed, cognisance is taken of the fact that prevention of illegal dumping is also a community responsibility as it affects their environment. As part of waste management, the CoCT employs the EPWP staff to service certain areas. The employment of this staff is also dependent on availability of funds and the nature of work to be done. The CoCT, during an inspection on 09 December 2025 confirmed that EPWP workers were appointed and will be singing contracts on 10 December 2025 for cleaning the communal areas.

Illegal connections

6.1.641.6 Illegal sewer connections were observed in Langa Flats and parts of SST-Marikana resulting in overloading the sewer line and it collapsed.

Occupancy survey

6.1.641.7 The Public Protector notes that the CoCT consulted tenants at Langa flats in January 2025, *in lieu* of doing an occupancy survey. It is apparent that tenants who are unwilling to enter into lease agreements may be evicted. This, however, may have some unintended consequences like homelessness. After further engagements the CoCT is now exploring alternative and innovative methods of regularisation.

Illegal land use

6.1.641.8 Residents don't abide by the land use bylaws wherein they construct illegal structures on pavements or as attachments to existing units, which has a negative bearing on the extent to which services such as water and sanitation and electricity can be rendered fairly and equitably. Due to population

overgrowth and resource prioritisation, the CoCT selects which areas to attend and which ones not to attend because eviction of illegal land occupiers is a lengthy legal process.

6.1.641.9 In its response, the CoCT raised the issue of illegal land invasion at identified housing projects resulting either in the projects being abandoned and funds being shifted to other projects.

6.1.641.10 The CoCT in its latest response dated 01 December 2025, indicated that the CoCT's Housing Department in collaboration with its Safety and Security Department has established a weekly war room to address high-risk projects and vacant land invasions.

6.1.641.11 Further to the above, court interdicts are proactively obtained for high-risk sites and projects to ensure swift action and legal protection where necessary as well as regular patrols by the CoCT's Anti-Land Invasion Unit in an effort to combat illegal occupation.

Interventions implemented by the CoCT

6.1.642 During the investigation, the CoCT undertook appropriate interventions and measures to remedy some of the service delivery deficits highlighted during the Public Protector's two Roadshows and through Notices in terms of *Rule 23(1) of the Public Protector Rules* and various *inspections in loco* conducted and meetings held with functionaries of the CoCT and residents of Langa, Khayelitsha and SST-Marikana.

6.1.643 A joint *inspection in loco* by the Investigation Team and functionaries of the CoCT was conducted on 3 July 2025 focusing on five (05) clinics managed by the CoCT namely, Eastridge, Westridge, Rockland, Mathew Goniwe and Town

Two, including SST-Marikana in Khayelitsha, Langa Flats and Langa Zone 20 and established that the CoCT had implemented certain interventions to remedy some of the impediments highlighted.

6.1.644 The interventions constitute evidence of accountability by the CoCT towards providing services to residents regardless of the limited resources and without waiting for investigation by the Public Protector to conclude.

Langa Flats

6.1.645 In Blocks J1 and J3, initial sewer spillage overflows were repaired, but subsequent overflows emerged adjacent to the repaired sites.

6.1.646 Tender number 135/2021/22, was initiated for purposes of:

6.1.646.1 verification of the initial allocation list to ascertain the original beneficiaries.

6.1.646.2 perform an occupancy survey to validate the specific unit occupied by the residents against the original allocation list.

6.1.646.3 undertake a feasibility study regarding the current design and typology of the housing units to determine compliance with construction legislation.

6.1.646.4 evaluate the sale and registration processes in accordance with the Sectional Title Scheme programme, as regulated by the Sectional Title Act 95 of 1986 and the Sectional Title Scheme Management Act, 2011.

Langa Zone 20

6.1.647 The main sewer line that had been in bad condition for the past fourteen (14) years has been repaired and problem of sewer blockages is manageable.

Khayelitsha Area-Road Resurfacing & Repairs

6.1.648 Japhta Masemola Road and other roads were resurfaced during 2022 to 2024 financial years.

6.1.649 At Walter Sisulu Road, Makhaza, a deep pothole that was observed during the on-site inspection by the Public Protector on 07 March 2022 has been repaired and construction activities were in progress on the road in August 2022.

Khayelitsha Township: Site B and K Section, Ngcubeni Street

6.1.650 At Site B and K Section, Ngcubeni Street a sewage that was overflowing onto the street was repaired on 06 September 2022 as per information from residents.

SST-Marikana

6.1.651 Residents of SST-Marikana have access to portable ablution facilities.

Health facilities -Elula project

6.1.652 The Health Department of the CoCT initiated the IT Modernisation Project, known as the *"Elula Project".* This initiative is designed to enhance the department's operational processes through the adoption of digital transformation solutions. This project is being implemented in phases and still in the pilot stage to be rolled out to all health care facilities.

Eastridge Clinic

6.1.653 Smoke/fire detectors were installed and upgraded in March 2025 including

installation of a heat detector, fire sheet emergency blanket and alarm sirens.

6.1.654 An inventor connected to all the plugs serving as an alternative power source was installed during 2024.

6.1.655 Employees have portable panic buttons connected to the Law Enforcement of the CoCT to supplementary security measures in place in addition to two security officers stationed at the facility.

Rocklands Clinic

6.1.656 Smoke/fire detectors were upgraded in the record room during March 2025 including installation of a heat detector, fire sheet emergency blanket and alarm sirens.

6.1.657 Employees have portable panic buttons connected to the Law Enforcement of the CoCT to supplementary security measures in place in addition to two (02) security officers stationed at the facility.

6.1.658 The clinic received a generator from the CoCT on 02 July 2025 which was still to be installed and equipped for functionality.

Mathew Goniwe Clinic

6.1.659 The clinic has a generator placed outside (barcode H45716) as alternative source of power.

Westridge clinic

6.1.660 Smoke/fire detectors were installed in the record room and upgraded in March

2025, including installation of a heat detector, fire sheet emergency blanket and alarm sirens.

6.1.661 There is a generator, Asset No: E66513, which was received in May 2025.

Town Two Clinic

6.1.662 The clinic has a static generator which has recently been repaired.

Human resource capacity

6.1.663 The evidence also revealed that human resource capacity constraints have been addressed, security challenges are being addressed, however, other safety mechanisms for monitoring and protection devices at the clinics are still to be addressed.

6.1.664 Joint *inspections in loco* by the Investigation Team and functionaries of the CoCT was conducted on 13 November 2025 focusing on SST-Marikana in Khayelitsha and conducted on 09 December 2025 focusing on Langa Flats established the following intervention by the CoCT to remedy some of the impediments highlighted.

SST Marikana

6.1.665 Following the inspection with the Investigation Team, it has been established that there are 6 - 7 toilets available for use by the ten (10) relocated families. Water and sanitation services are otherwise provided in line with National Norms and Standards where possible in accordance with GIS data not estimated distances.

6.1.666 Engagements with the Reticulation branch are underway in order to obtain the necessary approvals for additional new tap/s and toilets, subject to investigations into the possibility thereof.

6.1.667 Further to the above, repairs and maintenance activities were also conducted. The following defects were identified and responded to: 2 x toilets doors replaced, 3 x standpipes repaired, 3 x gullies were unblocked, 4 x cleaning eye bends were repaired, 4 x pan connectors were replaced and 4 x cisterns replaced. A second intervention was initiated on 14 November 2025 and the following defects identified and responded to: 1 x cistern replaced, 1 x pan and connector replaced, 1 x flush waterpipe and stopcock fitted and 1 x water pipe replaced.

6.1.668 The branch further indicated that as of 14 November 2025 they covered the entire Blowie pocket and in order to cover the remaining areas within SST the branch will require two (02) dedicated law enforcement teams for a week to ensure that the depot teams are able to inspect and repair all defects within SST.

Disability awareness

6.1.669 The prioritisation of Mr Patrick Johnson (Mr Johnson), an elderly wheelchair-bound gentleman, and the possibility of relocating him to an area more conducive to his needs.

6.1.670 The CoCT engaged their counterparts, the DSD, who conducted assessments and believe, with the family's support, that elderly gentleman should be placed in a Western Cape Government old age home.

6.1.671 DSD have also confirmed that they are in the process of arranging a food

parcel for the household while the Western Cape Government social worker completes the necessary procedures for Mr Johnson's admission to an old age home. This recommendation is made in the interest of ensuring his safety and ongoing care.

6.1.672 Furthermore, they have indicated that their interventions are ongoing, with close monitoring of the case.

6.1.673 The Public Protector acknowledges and commends the collaborative efforts put in place to assist the elderly gentleman and wish to encourage stakeholders to continue in the cooperation to assist and support one another.

Sewer infrastructure

6.1.674 Work on the sewer infrastructure had commenced and pipes have been repaired at the site from where the ten (10) families originated.

6.1.675 Further progress at that location is hindered by the need to relocate other residents currently residing on that pipeline and before any further work can be undertaken families occupying land over the sewer infrastructure have to be moved.

6.1.676 While land availability remains a challenge, discussions with PRASA are underway to use a portion of their property for relocation purposes, negotiations are promising and this process will run its course.

6.1.677 On 12 January 2026, the CoCT furnished the Public Protector with an update on repairs of sections of the sewer line and the works performed to address the sewer collapse on JK Masemola Road, Makhaza, Khayelitsha which includes work up to and including the morning of Monday, 12 January 2026.

6.1.678 The CoCT also confirmed ten (10) collapses on 30 November 2025along the length of the sewer line, with other collapses affecting other areas that the pipeline passes, upstream, such as SST informal settlement and the work that had commenced to address the collapse, including:

6.1.678.1 Assignment of a suitable, competent contractor;

6.1.678.2 Extensive Stakeholder Management, including community members, taxi associations and community leaders;

6.1.678.3 Identification of land for purposes of relocation of affected households;

6.1.678.4 Relocation of residents, and

6.1.678.5 Demolition of structures built over the collapsed section of sewer line.

6.1.679 The work commenced on 31 December 2025 with the following details as well as complexities experienced:

6.1.679.1 Setting up over pumping machinery to manage flows in the collapsed sewer line. This was initially six (06) pumps interconnected with about 2 kilometres of pipe work;

6.1.679.2 The number of pumps was raised to nine (09) due to the inability of the initial six (06) pumps to deal with the amount of flow coming through the sewer line. This proved to be effective in managing the flows and preventing any overflows;

6.1.679.3 The actual repair of the sewer line presents some complexities. The line is 7 metres deep and is 800mm in diameter. This means that the excavation work

that needs to be done in order to reach the pipe, would have to have shoring installed in order to prevent the walls of the excavation from caving in. This will be done using sheet-piling;

6.1.679.4 There would need to be de-watering capability to ensure that the excavation stays dry throughout the repair project;

6.1.679.5 The current pipework used to divert sewer on the over pumping exercise, will be replaced with 315mm HDPE pipework which will be more effective and reliable in pumping out the required water to be able to commence with the repair; and

6.1.679.6 A challenge that also hampered progress was the collapse of a manhole along the sewer line, which was used as a discharge point. It now also forms part of the repair work to be undertaken.

6.1.680 A test run where pumpstations (not mobile pumps) that effect the collapsed line were switched off, was conducted. This was in order to ascertain the best time in which to isolate the collapsed section and perform the repair work required.

6.1.681 This test run was concluded at night which is the best time due to low flows that are experienced. Five (05) pumpstations were switched off for this exercise. Law enforcement escorts had to be arranged in order to ensure safety of all the municipal staff that were at the various sites.

6.1.682 The exercise was successful. It was established that the time of lowest flow was between 3 am and 4 am. However, this would still not be enough to isolate the collapsed section. An additional five (05) pumps will need to be brought in to get the line completely dry for the commencement of isolating and repairing the collapsed section. This provision would also ensure that work can continue,

even when the flow starts to pick up as day comes about.

6.1.683 Work is continuing on the site in preparation for excavation and repair work.

6.1.684 Some of the work that has taken place includes:

6.1.684.1 Site Barricading for public safety;
6.1.684.2 Site clearance removal of rubble; and
6.1.684.3 Importing material so plant and machinery can create platforms where stockpiling can take place.

6.1.685 Over pumping continues and material is being brought to site in preparation for the excavation and repair work. Containers are being brought onto the site to be site offices. Lights are being installed for the night work that will take place. The remains inside the collapsed manhole are being cleaned out to set up over pumping at that manhole again. More updates will follow.

High Mast lights – repairs

6.1.686 In its response dated 01 December 2025, the CoCT reported that on 17 November 2025 pole number KHA145 at Uhlahlani Street, Blowie Informal Settlement, *"crane work and LED retrofit completed. The kiosk identified for alternative supply has been vandalised. Await Eskom to replace or refurbish the kiosk."* The repairs are in process.

Langa

6.1.687 During an *inspection in loco* on 09 December 2025, the CoCT confirmed that approval for the utilisation of the transversal tender had been granted and an assessment of the maintenance and repair work had already been performed

by the contractor to establish what is required from the contractor. Work is expected to commence after the builder's holiday in January/ February 2026.

6.1.688 During an inspection on 09 December 2025, the CoCT further indicated that the structural engineer is busy with an assessment, but that the initial assessments noted that the cracks do not present a structural risk. Regarding general maintenance, it was observed that repairs were done and daily monitoring is taking place, this was evident with the staff who were already on site on the day.

6.1.689 At the inspection on 09 December 2025, CoCT confirmed that EPWP staff were appointed and would be signing contracts on 10 December 2025 to attend to area cleaning in general.

6.1.690 During the *inspection in loco* on 09 December 2025, it was observed that a skip has been placed in front of the Nomonde Play Centre where dirt is collected every second day of the week, i.e. Mondays, Wednesday and Fridays.

Collaboration

6.1.691 The site inspection of 13 November 2025 was a proactive effort and invitation extended to the SAHRC to highlight the challenges and concerns around the sewer collapses in/around Marikana and was already scheduled prior to extending the invitation to the PPSA as part of ongoing CoCT efforts to resolve issues in/around Marikana.

6.1.692 The Public Protector takes cognisance of the intervening actions and steps taken by functionaries of the CoCT in addressing some of the identified deficiencies and shortfalls in the short and medium term and would encourage the CoCT to continue addressing other remaining deficiencies to minimize

prejudice suffered by residents, thus assisting the Public Protector to be effective and efficient through legislative and others measures as envisaged in section 181(3) of the Constitution.

7. FINDINGS

7.1 Having regard to the evidence, the regulatory framework setting out the standards with which the CoCT's functionaries were required to comply, and the impact on good administration, the Public Protector makes the following findings:

7.1.1 **Whether CoCT's provision of basic services to residents of Langa Flats and Khayelitsha township is in accordance with the obligations imposed by the Constitution and the law; if not, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration and prejudice in terms of sections 6(4)(a)(i) and (v) of the Public Protector Act**

7.1.2 The allegation that basic municipal services were not rendered in accordance with the Constitution, the Municipal Systems Act, and other applicable legislation is **substantiated.**

Investigation with respect to Langa Flats

Lease Agreements

7.1.3 The CoCT has not been able to sign lease agreements with all residents of Langa Flats. This inability has an impact on the State's duty to put legislative and other measures in place progressively to realise the right of access to adequate housing under section 26(2) of the Constitution and Item 3.3.2 of the

Cape Town Metropolitan Municipality Allocation Policy: Housing Opportunities, 2022 (Policy Number 11969).

7.1.4 The CoCT's inability to sign lease agreements with Langa Flats residents is contrary to the Rental Housing Act, which requires written lease agreements. It also affects residents' security of tenure, which is protected under section 26 of the Constitution, exposing residents to uncertainty, disputes, and vulnerability to arbitrary eviction, while limiting the CoCT ability to enforce mechanisms for rental collection, maintenance obligations, and lawful tenancy terms.

7.1.5 However, the Public Protector acknowledges that the CoCT is currently in the process of working on a regularisation initiative. If approved, this initiative would enable the regularisation of tenants who do not currently qualify, based on new qualifying criteria, after which leases can be finalised.

Structural Housing Defects and Common Areas and Fire Safety Equipment

7.1.6 The CoCT has not been able to fully repair the sewer infrastructure at Langa Flats. Fire hose reels and cracked housing unit walls remain unrepaired, and common areas are still untidy. This raises concerns regarding the residents' right to an environment that is not harmful to their well-being under section 24(a) of the Constitution, read with item 7.2.2.1 of the City of Cape Town Water and Sanitation Policy of 2023.

7.1.7 The failure by the CoCT to repair and maintain fire safety equipment has a direct bearing on the constitutional rights to life, dignity, and housing adequacy under sections 11, 10, and 26 of the Constitution.

7.1.8 Section 73(1)(a) of the Municipal Systems Act reinforces the importance of

providing municipal services in an equitable and sustainable manner, while section 156(1) of the Constitution empowers municipalities with both the authority and responsibility to enforce bylaws that secure safe working conditions for contractors and protect critical infrastructure.

7.1.9 The CoCT's sustained failure to restore functional fire hose reels and extinguishers, despite previous commitments, raises concerns regarding compliance with section 152(1)(d) of the Constitution and exposes residents to unconscionable life-threatening risks. Reasonable alternative approaches may be available to the municipality within its constitutional and statutory powers.

7.1.10 The Public Protector recognises the initiatives and actions implemented by the CoCT regarding the maintenance and repair of sewer infrastructure at Langa Flats, including fire hose reels and damaged walls of housing units, as well as the cleaning of common areas. It is noted that maintenance and repair activities are currently in progress, contractors have been engaged, EPWP workers are assigned to clean common areas, and skips have been positioned in Langa for waste disposal.

SST-Marikana

Access to water

7.1.11 The CoCT has not provided residents of SST-Marikana with access to adequate water, which raises concerns regarding compliance with section 27(1)(b) of the Constitution (the right of access to sufficient water) and affects the rights of local communities under section 5 of the Municipal Systems Act, 32 of 2000, to receive services from the municipality.

7.1.12 The CoCT's failure to provide residents of SST-Marikana with access to adequate water reflects non-compliance with the duties imposed on municipal administration under section 6, 73, 76, and 79 of the Municipal Systems Act, which require municipalities to provide basic municipal services impartially, fairly, equitably, and without bias.

7.1.13 The Public Protector acknowledges the apology issued by the CoCT regarding the measurement of distances to taps. It is also recognised that, while water and sanitation services are delivered in line with National Norms and Standards whenever feasible, the CoCT is currently examining the possibility of installing extra taps and toilets for the ten families who have been relocated next to the Clinic. The required applications for this initiative have already been submitted, although provision thereof remains subject to further investigations.

Non-functional High Mast Lights

7.1.14 The CoCT has been unable to repair the high mast lights at SST-Marikana, exposing residents to increased risk of violence from criminal elements during the night. This raises concerns regarding the rights of residents to freedom and security of their person protected under section 12 of the Constitution.

7.1.15 The Public Protector recognizes the CoCT's response dated 01 December 2025 which indicates that some high mast lights have been repaired, that some repairs are currently in progress, and that certain challenges remain. The updated feedback of 17 November 2025 provides an overview of completed repairs, ongoing repairs, and areas where access is not available.

7.1.16 The CoCT engaged with Eskom at the time of the relocation of residents, as contemplated by section 41(1)(h) of the Constitution, which requires all spheres of government to coordinate their actions to avoid prejudice to

communities' welfare, safety, and security. This also relates to the CoCT's positive duties under sections 152(1)(b) and (d) of the Constitution to ensure sustainable service provision and promote safe, healthy environments.

7.1.17 Despite the CoCT having met its obligation to engage Eskom during the relocation process, residents remain without electricity. This situation highlights challenges in remedying service delivery deficiencies and raises concerns regarding full compliance with the Municipal Systems Act, which mandates that municipalities deliver services fairly and without discrimination.

7.1.18 This scenario underscores the importance of intergovernmental cooperation, including collaboration with Eskom and relevant municipal departments, to guarantee the provision of essential services and the safeguarding of residents' rights.

Mathew Goniwe and Town Two Clinics

Smoke and Fire Detectors

7.1.19 The CoCT has not installed smoke detectors at Mathew Goniwe and Town Two clinics for prompt detection of possible fires. This affects the safety of staff and healthcare users and raises concerns regarding compliance with sections 8(2)(c) and 9(1) of the Occupational Health and Safety Act.

Security

7.1.20 The CoCT has not installed CCTV surveillance at Mathew Goniwe and Town Two clinics. This raises concerns regarding its obligations under section 27(1)(a) of the Constitution to ensure equitable and safe access to healthcare services, as reinforced by the National Health Act's mandate for municipal

health facility safety standards

Governance, Bylaw Enforcement, and Community Engagement

7.1.21 The CoCT has experienced deficiencies in the enforcement of land use Bylaws, which has created opportunities for the unlawful construction of informal structures on critical sewer servitudes. This has directly contributed to infrastructure collapse and recurring blockages, raising concerns regarding residents' constitutional rights to adequate sanitation under section 27(1)(b) of the Constitution and the CoCT's positive duties under sections 152(1)(b) and 156(1) of the Constitution to ensure sustainable service delivery and effective bylaw implementation.

7.1.22 The Public Protector, however, recognises that the CoCT's Housing Department, in collaboration with its Safety and Security Department, has established a weekly war room to address high-risk projects and vacant land invasions.

7.1.23 Further to the above, court interdicts are proactively obtained for high-risk sites and projects to ensure swift action and legal protection where necessary, and regular patrols are conducted by the CoCT's Anti-Land Invasion Unit in an effort to combat illegal occupation.

Health Environment

7.1.24 The CoCT's ability to collect waste four to five times weekly does not fully negate the ongoing prevalence of refuse accumulation and illegal dumping, which exposes residents to health hazards. This raises concerns regarding compliance with section 24(a) of the Constitution which states that everyone has the right to an environment not harmful to their health, section 9 of the

National Environmental Management: Waste Act 59 of 2008 (Waste Act), and section 73(2) of the Municipal Systems Act on the obligation of the CoCT to ensure accessible, equitable waste services.

7.1.25 The municipality's failure to implement reasonable measures within available resources, as required by the Constitutional Court's *Grootboom* and *Treatment Action Campaign* jurisprudence, coupled with its inadequate response to documented service delivery deficiencies over three years, establishes a pattern of conduct that falls within the definition of improper conduct under section 182(1)(a) of the Constitution.

7.1.26 Furthermore, the prejudice caused to residents through ongoing exposure to life-threatening risks, compromised living conditions and systematic deprivation of basic services constitutes maladministration and prejudice as envisaged in sections 6(4)(a)(i) and (v) of the Public Protector Act, thereby triggering the Public Protector's constitutional mandate to address such conduct and direct appropriate remedial action to restore constitutional compliance.

7.1.27 The sustained pattern of service delivery failures by CoCT functionaries, encompassing compromised fire safety equipment, structural housing defects, inadequate sanitation infrastructure, healthcare facility safety deficits, and electricity coordination failures, raises serious concerns regarding residents' fundamental rights under sections 10 (human dignity), 24 (environmental health), 26 (adequate housing) and 27 (healthcare and water) of the Constitution.

7.1.28 These systemic failures raise concerns regarding the CoCT's adherence to the constitutional values and principles enshrined in section 195(1), which mandate accountability, responsiveness, transparency, and efficiency in public

administration, while simultaneously raising questions regarding compliance with section 4 of the Municipal Systems Act, which requires that municipal administration be governed by democratic values and be responsive to community needs.

8. OBSERVATIONS

8.1 In light of the above information and evidence, the Public Protector makes the following observations:

8.1.1 While the CoCT has implemented various measures to address service delivery challenges in Langa Flats and Khayelitsha, the sustainability and effectiveness of these interventions have been constrained by resource limitations, competing service delivery priorities and infrastructure backlogs.

8.1.2 Throughout the investigation, the CoCT repeatedly indicated that several critical interventions, including the rehabilitation of ageing sewerage infrastructure, installation of CCTV systems at clinics, provision of backup power, maintenance of public infrastructure, and security enhancements, could not be fully implemented due to budgetary constraints and limited financial resources.

8.1.3 The evidence further demonstrates that significant portions of the municipal budget have been diverted or reprioritised as a result of unforeseen circumstances, including land invasions, vandalism of public infrastructure, criminality, and escalating maintenance demands associated with rapidly growing informal settlements. These factors have increased the financial burden on the municipality and have affected its ability to progressively realise the constitutional rights of residents to access basic municipal services.

8.1.4 Furthermore, the investigation revealed that certain systemic challenges, particularly the replacement of collapsed sewerage infrastructure in informal settlements, require substantial capital investment and coordinated support from all spheres of government. Municipal officials indicated that funding allocated for the rehabilitation, augmentation and maintenance of sewerage infrastructure had to be committed within prescribed financial periods, failing which such allocations would be redirected to other projects, illustrating the financial pressures under which the municipality operates.

8.1.5 While these financial constraints do not absolve municipalities from their constitutional obligations to progressively realise socio-economic rights within available resources, the persistent service delivery challenges identified in this report raise broader questions regarding whether the existing intergovernmental fiscal framework and equitable allocation of nationally raised revenue sufficiently support municipalities with extensive informal settlements and significant infrastructure backlogs.

8.1.6 The Public Protector recognises that the national fiscus is subject to competing demands and that the National Treasury is constitutionally required to balance the allocation of nationally raised revenue among the three spheres of government within the limits of available resources. The Public Protector does not suggest that additional funding should automatically be allocated to the CoCT. Rather, having regard to the systemic service delivery challenges identified during the investigation, recommends that the Minister of Finance, in exercising the constitutional responsibilities contemplated in sections 214 and 227 of the Constitution assesses, in consultation with the relevant national and provincial stakeholders, whether the existing fiscal allocations and funding mechanisms adequately support municipalities with extensive informal settlements, ageing infrastructure and increasing service delivery demands.

8.1.7 Such an assessment is consistent with the constitutional framework governing equitable revenue allocation and cooperative governance and may assist in determining whether the current funding arrangements sufficiently enable municipalities to progressively realise constitutional rights and fulfil their obligations relating to the provision of basic municipal services or additional fiscal measures or adjustments are necessary.

Response received from the CoCT, dated 29 June 2026

8.2 On 23 June 2026, the Public Protector forward correspondence to the CoCT indicating that the Public Protector intend to publish a report on 30 June 2026. Attached to the correspondence was an unsigned report.

8.3 The CoCT responded in a letter dated 29 June 2026 stating the following:

8.3.1 It submitted that, having regard to the duration and complexity of the investigation, the lapse of more than six months since its previous correspondence, the volume of the draft report and the limited period afforded to comment, it was unable to provide comprehensive submissions on every aspect of the report. The CoCT accordingly reserved all its rights, including the right to supplement its submissions should a further opportunity be afforded.

8.3.2 The CoCT nevertheless expressed its appreciation for the constructive engagement that had characterised its interactions with the Public Protector throughout the approximately four-year investigation and reiterated its commitment to continued cooperation.

8.3.3 The CoCT submitted that the report did not adequately consider its most recent update dated 22 December 2025 and subsequent developments. It further contended that the Executive Summary did not sufficiently reflect the extensive

cooperation and correspondence exchanged between the parties throughout the investigation and that certain findings were inconsistent with the Investigation Team's observations, which recognised the CoCT's interventions and the operational challenges under which it performs its constitutional functions.

8.3.4 The CoCT further disputed several findings relating to public housing, municipal services, electricity, public health facilities and the proposed remedial action.

8.3.5 It submitted, amongst others, that the N2 Gateway (Joe Slovo) development falls under the CRU Programme rather than the Social Housing Programme; that many occupants remain without lease agreements because they either do not qualify for tenancy or declined to conclude lease agreements; that substantial progress has been made regarding sewer infrastructure, fire safety equipment, structural repairs and cleaning of common areas; that significant funding constraints continue to impede the upgrading of Community Residential Units; that the CoCT has consistently engaged Eskom regarding the electrification of relocated households at SST Marikana; that the continued absence of electricity is largely dependent upon Eskom's statutory responsibilities and community consent; that operational challenges such as unlawful occupation, vandalism, illegal utility connections and criminality materially affect municipal service delivery; and that the report adopts an overly expansive interpretation of the constitutional concept of basic municipal services.

8.3.6 The CoCT further submitted that several interventions identified in the report were already underway before the investigation was concluded and should therefore not be attributed to the investigation itself. It accordingly requested

the Public Protector to reconsider the findings, remedial action and monitoring provisions.

8.4 The Public Protector has carefully considered all the additional information submitted by the CoCT and notes the following:

8.4.1 The contention that the CoCT was not afforded a reasonable opportunity to present its case is not supported by the investigation record. This investigation extended over approximately four years and involved numerous requests for information, *inspections in loco*, engagements with municipal officials, meetings with stakeholders, documentary submissions and ongoing correspondence.

8.4.2 Throughout the investigation, the CoCT actively participated and furnished extensive documentary and oral representations. Following completion of the investigation, the CoCT was again afforded an opportunity to comment on the proposed findings and remedial action before the report was finalised. Those representations have been fully considered.

8.4.3 The CoCT's submission that the report did not adequately reflect the City's cooperation throughout the investigation. The report acknowledges the extensive engagement between the parties and recognises the significant interventions implemented by the CoCT during the investigation.

8.4.4 The Public Protector appreciates the cooperation extended by the CoCT throughout the investigation. However, cooperation with an investigation, while commendable, does not in itself negate a finding of maladministration where the evidence establishes that constitutional and statutory obligations have not been fully discharged.

8.4.5 The Public Protector further notes the CoCT's submission that the report failed to consider subsequent developments. The evidence does not support this contention. The report expressly records the numerous interventions implemented during the investigation, including repairs to sewer infrastructure, cleaning initiatives, structural assessments, maintenance of public housing, occupancy regularisation initiatives, procurement processes relating to fire safety equipment, improvements at public healthcare facilities, engagements with Eskom, and various other service delivery initiatives.

8.4.6 These interventions were taken into account in arriving at the findings. However, the evidence further established that notwithstanding these improvements, several systemic deficiencies remained unresolved at the conclusion of the investigation and continued to prejudice affected residents. The findings therefore reflect an assessment of the totality of the evidence rather than isolated historical events.

8.4.7 With regard to the N2 Gateway (Joe Slovo) development, the Public Protector accepts the CoCT's clarification that the development forms part of the Community Residential Units Programme and not the Social Housing Programme. For purposes of factual accuracy, the report has been refined to consistently reflect the applicable housing programme.

8.4.8 The Public Protector further notes the City's explanation that many occupants either declined to conclude lease agreements or do not qualify for tenancy. These explanations were already considered during the investigation and are reflected in the report. The findings are not premised upon an expectation that the CoCT should compel unwilling persons to conclude lease agreements. Rather, they concern the CoCT's constitutional obligation to implement reasonable administrative measures to regularise occupation, determine lawful occupancy, conclude lease agreements where appropriate and ensure

certainty in the administration of public rental housing. The CoCT's implementation of the Regularisation Programme is welcomed and accords substantially with the objectives underpinning the remedial action contained in this report.

8.4.9 The CoCT further submitted that the Investigation Team's observations acknowledging repairs to sewer infrastructure, cleaning of common areas, maintenance interventions and operational challenges are inconsistent with the findings. The Public Protector does not agree. The observations were intentionally included to recognise the considerable efforts undertaken by the CoCT during the investigation, as well as the significant operational challenges arising from ageing infrastructure, funding limitations, vandalism, unlawful occupation, illegal utility connections, criminal activity and increasing service delivery demands. These observations provide the factual context within which the investigation was conducted. They do not absolve the CoCT of its constitutional obligations, nor do they negate findings where evidence establishes that residents continued to experience prejudice despite the interventions undertaken.

8.4.10 The Public Protector further notes the CoCT's submissions concerning funding constraints affecting the Community Residential Units Programme. The investigation similarly established that the upgrading of public rental housing requires meaningful cooperation and financial support from provincial and national government. The CoCT's submissions reinforce, rather than undermine, the necessity of the remedial action directed towards enhanced intergovernmental cooperation, including engagement with the relevant national departments responsible for human settlements, cooperative governance and fiscal allocation.

8.4.11 Regarding SST Marikana, the Public Protector notes the CoCT's acceptance that the relocated households are entitled to water services consistent with the applicable norms and standards and welcomes the commitments to complete GIS verification, install additional standpipes and undertake further infrastructure assessments. These undertakings substantially accord with the remedial action contained in this report and demonstrate the practical value of the investigation.

8.4.12 The Public Protector likewise notes the CoCT's submissions regarding electricity supply and its engagements with Eskom. The report already recognises that consultations between the CoCT and Eskom occurred before, during and after the relocation process and that the Public Protector also facilitated engagement between the parties. The findings are therefore not based upon any failure by the CoCT to engage Eskom. Rather, they recognise that the continued absence of electricity results from the combined responsibilities of several organs of state and that coordinated implementation remains necessary. The report has accordingly been clarified to ensure consistency regarding the CoCT's engagement with Eskom. This clarification does not alter the findings or the remedial action.

8.4.13 The Public Protector further notes the CoCT's explanations concerning the maintenance of high-mast lighting, including the challenges posed by Eskom's statutory mandate, unlawful occupation, vandalism, illegal electricity connections, land ownership, aviation restrictions and funding limitations. These challenges are expressly recognised in the report. However, they do not diminish the constitutional obligation resting upon all organs of state to cooperate in progressively improving living conditions within affected communities.

8.4.14 With regard to the Matthew Goniwe and Town Two Community Day Centres, the Public Protector accepts the CoCT's submissions that both facilities have valid fire certificates, emergency management plans and fire safety equipment and that, in terms of the applicable SANS 10400 Part T Fire Safety standards, smoke detectors are not mandatory for facilities classified as G1 occupancies. The report has therefore been refined to ensure that the remedial action requires compliance with the applicable legislative and regulatory framework governing fire safety, rather than prescribing measures beyond those standards. Similarly, the report acknowledges that CCTV installations are linked to ongoing renovation projects and should be implemented in accordance with applicable procurement processes and available resources.

8.4.15 The CoCT further submitted that the report adopts an unduly expansive interpretation of basic municipal services and conflates complex service delivery challenges with maladministration. The Public Protector is unable to agree with this submission. The report does not impose an absolute obligation upon the municipality to eliminate every service delivery challenge irrespective of available resources. Nor does it disregard the operational realities confronting the CoCT. Instead, the findings assess whether, viewed objectively and cumulatively, the administrative conduct of the CoCT complied with the constitutional obligations imposed by sections 152, 153 and 195 of the Constitution, read together with the applicable legislative framework. In making that assessment, the Public Protector expressly considered the CoCT's financial constraints, competing priorities, historical infrastructure backlogs, community dynamics, unlawful occupation, vandalism and the respective constitutional mandates of other organs of state.

8.4.16 The Public Protector further notes the CoCT's submission that many corrective measures had already commenced before the investigation concluded. The report expressly recognises and commends those interventions. Their

implementation demonstrates responsiveness on the part of the CoCT and has been taken into account in the analysis. Nevertheless, the existence of ongoing corrective measures does not preclude a finding of maladministration where the evidence establishes that constitutional obligations were not fully realised and that affected residents continued to experience prejudice. The findings therefore concern the state of affairs revealed by the evidence as a whole and not merely whether corrective measures had commenced.

8.5 Having carefully considered all the representations submitted by the CoCT, the Public Protector remains satisfied that the findings are supported by the evidence obtained during the investigation, including documentary evidence submitted by the CoCT, *inspections in loco*, stakeholder engagements and the applicable constitutional and legislative framework. The representations have resulted in certain factual clarifications and refinements to ensure greater precision and consistency, particularly regarding the CRU Programme, the CoCT's engagement with Eskom and the applicable fire safety standards. Those refinements do not affect the substance of the findings or the remedial action. The Public Protector accordingly remains satisfied that the evidence establishes maladministration as contemplated in section 182(1)(a) of the Constitution and section 6(4) of the Public Protector Act, and that the remedial action contained in this report remains appropriate, reasonable and necessary.

9. RECOMMENDATIONS

9.1 Having identified systemic issues relating to the adequacy of the existing fiscal framework, the Public Protector considers it appropriate, in terms of section 182(1)(c) of the Constitution read with section 6(4)(c)(ii) of the Public Protector Act, to recommend that:

The Minister of Finance

9.2 Within six (06) months of receipt of this report, and in the exercise of the constitutional responsibilities contemplated in sections 214 and 227 of the Constitution, engage with the Minister for Human Settlements, the Minister for Cooperative Governance and Traditional Affairs, the Provincial Government of the Western Cape and the City of Cape Town to assess whether the existing intergovernmental fiscal framework, equitable share allocations and other funding mechanisms adequately support municipalities experiencing significant infrastructure backlogs, extensive informal settlements and increasing service delivery demands.

9.3 In conducting the assessment, consider the extent to which existing fiscal allocations and funding mechanisms enable municipalities to progressively realise the constitutional rights of residents to access basic municipal services, taking into account the competing demands on the national fiscus and the need to balance the equitable distribution of nationally raised revenue among the three spheres of government.

9.4 Within sixty (60) days after completion of the assessment, submit a report to the Public Protector setting out:

9.4.1 the outcome of the assessment;

9.4.2 whether the existing fiscal framework is considered adequate to support municipalities facing the identified systemic challenges;

9.4.3 any measures considered or implemented within the Minister's constitutional and statutory mandate to strengthen the funding framework, where necessary; and

9.4.4 any further recommendations or engagements proposed to enhance the capacity of municipalities to fulfil their constitutional obligations relating to the provision and maintenance of basic municipal services.

The Minister of Human Settlements

9.4.5 The Public Protector takes cognisance of the constitutional and legislative framework governing cooperative governance, in particular section 41 of the Constitution of the Republic of South Africa, 1996, which requires all spheres of government and organs of state to respect, secure and co-operate with one another in mutual trust and good faith, and to co-ordinate their actions and legislation in order to achieve the objectives of government as a whole.

9.4.6 In light of the findings contained in this report, the Public Protector is of the view that the Minister for Human Settlements should take cognisance of the issues identified herein, particularly insofar as they relate to intergovernmental coordination, planning alignment, and the effective delivery of human settlements within the framework of cooperative governance. This is necessary to ensure that national human settlements policy and implementation mechanisms are responsive to municipal realities and are implemented in a manner that promotes efficiency, accountability, and the progressive realisation of constitutional obligations.

The Minister of Cooperative Governance and Traditional affairs

9.4.7 The Public Protector recommends that the Minister for Cooperative Governance and Traditional Affairs, in line with the principles of cooperative governance as set out in section 41 of the Constitution of the Republic of South Africa, 1996, should strengthen and, where necessary, enhance existing intergovernmental coordination mechanisms to ensure improved alignment

between national, provincial, and local spheres of government in the planning and implementation of service delivery programmes.

9.4.8 In particular, the Minister is encouraged to review the effectiveness of current frameworks and structures designed to facilitate intergovernmental relations, with a view to addressing any identified gaps that may hinder timely collaboration, integrated planning, and efficient implementation of development and service delivery initiatives.

9.4.9 Furthermore, the Minister should promote structured engagement between relevant sector departments, including the Minister for Human Settlements and the Minister of Finance, to ensure that planning priorities, policy objectives, and funding arrangements are adequately coordinated to support sustainable human settlements and effective municipal service delivery outcomes.

10. REMEDIAL ACTION

10.1 The Public Protector is empowered in terms of section 182(1)(c) of the Constitution to take appropriate remedial action with a view to redressing the conduct referred to in this notice upon the conclusion of an investigation where adverse findings are made.

10.2 In the matter of *Economic Freedom Fighters v Speaker of the National Assembly and Others: Democratic Alliance v Speaker of the National Assembly and Others,* the Constitutional Court, per Mogoeng CJ*,* held that the remedial action taken by the Public Protector has a binding effect.

10.3 Having regard to the evidence and the regulatory framework determining the standard that functionaries of the CoCT should have complied with, the Public Protector is taking the following remedial action in terms of section 182(1)(c)

of the Constitution:

The Executive Mayor

10.4 To take note of the remedial action issued against the functionaries of the CoCT and ensure its implementation by the Municipal Manager in terms of section 56(3)(c) and (e) of the Municipal Structures Act.

10.5 Within **sixty (60) calendar days** from the date of receipt of this report, table the report to the Municipal Council for discussion in line with his/her powers and functions in terms of section 56 of the Municipal Structures Act.

The Municipal Manager

10.6 Within **thirty (30) calendar days** from the date of receipt of this report, ensure that residents of the SST-Marikana Informal Settlement have access to water, in accordance with the commitment made by the CoCT in its response dated 01 December 2025, and provide the Public Protector with an action plan for the installation of additional water taps and sanitation facilities. This should take into account the ongoing engagements with the Reticulation Branch aimed at securing the necessary approvals, particularly in the absence of relocation to a site that meets the minimum standards for basic human settlement, in accordance with sections 27, 152 and 153 of the Constitution and the City's obligations to provide equitable and accessible basic municipal services.

10.7 Within **one hundred and twenty (120) calendar days** from the date of receipt of this report, take measures, in accordance with sections 24, 152 and 153 of the Constitution, section 73 of the Local Government: Municipal Systems Act and the Water Services Act, ensure that long-term repairs to the sewerage

infrastructure at Langa Flats and Khayelitsha townships are effected, and submit to the Public Protector detailed short- and long-term rehabilitation strategies aimed at ensuring the sustainable provision of sanitation services and the protection of a safe and healthy environment;

10.8 Within **six (06) months** from the date of receipt of this report, and in accordance with sections 26, 152 and 153 of the Constitution, the Local Government: Municipal Systems Act, and the Upgrading of Informal Settlements Programme under the National Housing Code, provide the Public Protector with a detailed action plan concerning the regularisation initiative proposed by the CoCT. The action plan must outline the key components of the initiative, identify responsible officials, and specify implementation timeframes up to and including the conclusion and signing of lease agreements with affected occupants;

10.9 Within **sixty (60) calendar days** from the date of receipt of this report, and in accordance with sections 24, 152 and 153 of the Constitution and section 73 of the Local Government: Municipal Systems Act, develop and submit to the Public Protector a strategy to ensure the provision of sustainable and long-term cleaning services at Langa Flats, including clear implementation measures, responsible officials, and monitoring mechanisms aimed at maintaining a safe, healthy and dignified living environment for residents;

10.10 Within **thirty (30) calendar days** from the date of receipt of this report, and in accordance with sections 152(1)(b) and (d), 152(1)(d) and 153(a) of the Constitution, as well as section 73 of the Local Government: Municipal Systems Act;

10.11 Engage with Eskom and any other relevant stakeholders to identify and implement measures to restore the functionality of non-operational high-mast

lights in Khayelitsha township and other affected human settlements within the CoCT area. The CoCT must provide the Public Protector with a report outlining the agreed interventions, responsible stakeholders, and implementation timeframes; and

10.12 Submit to the Public Protector a comprehensive long-term plan for the maintenance and upkeep of high-mast lights situated in Khayelitsha township and other surrounding human settlements within the CoCT area. The plan must include maintenance schedules, budgetary considerations, responsible officials, monitoring mechanisms, and measures to ensure the continued provision of safe and reliable public lighting services.

10.13 Within **sixty (60) calendar days** from the date of receipt of this report, and in accordance with sections 26, 152 and 153 of the Constitution, the Housing Act, the Local Government: Municipal Systems Act, and the Upgrading of Informal Settlements Programme under the National Housing Code, engage with Eskom to identify and implement measures to prioritise the electrification of the ten (10) relocated families. The CoCT must collaborate with Eskom and affected communities to secure the necessary consent for electrification. Alternatively, subject to the availability of suitable land, the CoCT must take steps to relocate the ten (10) families to a site that complies with the minimum standards for basic human settlement and access to basic municipal services.

10.14 Within **six (06) months** from the date of receipt of this report, and in accordance with sections 24 and 27 of the Constitution, the National Health Act, and the Occupational Health and Safety Act put measures in place to ensure that health facilities are equipped with smoke detectors or other appropriate early fire-warning mechanisms. The measures must include implementation timeframes, maintenance protocols, and monitoring mechanisms to safeguard the health, safety and well-being of patients, staff

and visitors.

The MEC for Local Government

10.15 To monitor the CoCT's implementation of remedial action on a quarterly basis and consider, in accordance with his/her discretionary powers under section 139 of the Constitution, whether intervention may be necessary should substantial non-compliance occur, and report such considerations to the Provincial Legislature in terms of section 133 of the Constitution.

11. MONITORING

11.1. Submit an implementation plan to the Public Protector within **30 (thirty) days** of receipt of this report demonstrating how the remedial actions above are to be implemented.

ADV KHOLEKA GCALEKA
PUBLIC PROTECTOR
REPUBLIC OF SOUTHAFRICA
DATE: 30 JUNE 2026
Assisted by Provincial Investigations and Integration, Coastal