

**REPORT**

**TO : THE PORTFOLIO COMMITTEE ON BASIC EDUCATION**

**FROM : MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

**SUBJECT : PROGRESS MADE IN LIM 345 SINCE THE PRESIDENT VISITED THE COMMUNITY OF VUWANI ON THE 07 MAY 2017**

# PURPOSE

The purpose of the report is to provide an update report to the Portfolio Committee on Basic Education on the developments in LIM345 since the President visited the community of Vuwani on the 7th May 2017.

1. **BACKGROUND**
   1. Following the decision by the community of Vuwani and surrounding areas not to accept services rendered by LIM345 and the resultant unrests, the Office of the VhaVenda King approached the President with the view to resolve the ensuing stalemate during the first week of May 2017. It was resolved in the meeting that the President will address the people of Vuwani on the 07 May 2017.
   2. The President engaged key stakeholders on 07 May 2017 where it was agreed that the community in the aggrieved wards will temporarily receive services from the Vhembe District Municipality and that the discussion on the demarcation process will continue.
   3. The President also engaged the Malamulele / Hlanganani representatives to understand their views on the problem of Vuwani. It was agreed in the meeting that the President will engage all affected stakeholders to also deal with social cohesion.
2. **DISCUSSIONS**
   1. The Province initiated the process of implementing the decision by exploring **Section 88 of the Municipal Structures Act**, 117 of 1998 as the most appropriate legislative provision to implement the decision.
   2. On the 17 May 2017, the Executive Council resolved that the implementation of the Presidential pronouncement decision for Vhembe District to provide services on behalf of LIM345 Local Municipality should be preceded by consultations with Councillors and key stakeholders.
   3. All key stakeholders within LIM345 were consulted and requested to submit inputs in writing, to which they responded as follows:-
      1. **Vhembe District Councillors**: Some Councillors of Vhembe District Municipality supported the proposal. The Vhembe District was further requested to provide progress on their readiness to provide services on behalf of LIM345 Local Municipality. In response, the district indicated that it is ready as soon as LIM345 submits a request and provided government provides the requisite support to augment their capacity.
      2. **Councillors of LIM345 Local Municipality**: During its meeting of 19 July 2017, the Council of LIM345 resolved that the decision is not implementable since the resistance is not from all wards/villages of Vuwani, and furthermore, that the municipality will service all 36 wards within its jurisdiction, and that the Limpopo department of Co-operative Governance, Human Settlements & Traditional Affairs should continue to support the municipality in provision of services to all wards throughout the municipality.
      3. **Malamulele Task Team and Traditional Leaders**: The consolidated inputs were received, and the synopsis of their input was that the new Municipality should be provided an opportunity to exist or operate without impediments, and further that the tribalism between Tsonga and Venda people should be dealt with openly since it appears to be the main driver of the objection. By segregating the provision of services, the government could be tacitly enhancing and honouring the tribalism between the Tsonga and Venda people.
      4. **Pro-Makhado Task Team and Traditional Leaders**: The essence of the submission received was that Section 87 of the Municipal Structures Act should be implemented to qualify the visit and pronouncement of the President, and that the application of the section will direct the implementation of services to six areas, that is, (Masakona, Mashau, Masia, Tshimbupfe, and Davhana) Traditional Authorities, and one administrative area (Vuwani location).
      5. Following the extensive consultations with the stakeholders alluded to in (2.5) above, CoGHSTA tabled a memorandum before EXCO on the 3rd August 2017 outlining the possible options for the implementation of the Vuwani Agreement to render services on portions of LIM 345 as an interim measure while a permanent solution to the Vuwani situation is being sought.
      6. The Executive Council considered and deliberated on the CoGHSTA memorandum and subsequently resolved as follows as per EXCO Decision No. 38 of 2017/18:-
      7. That the MEC for COGHSTA be mandated to invoke either Section 154 of the Constitution or Section 87 of the Municipal Structures Act to provide services in some Wards within the LIM345 Local Municipality;
      8. That the government institutions (Sector departments and District Municipality) should commence with the provision of services in Vuwani and that CoGHSTA should provide oversight thereto; and
      9. That the interim arrangement should be in line with the provisions of Section 87(4) of the Municipal Structures Act, which provides that “the MEC for local government must re-allocate that function or power to the original municipality when that municipality is in a position to resume the provision of those basic services”.
      10. **Implementing Section 154 of the Constitution of the Republic of South Africa**
3. Considering challenges related to utilizing provisions of the Municipal Structures Act, in particular, sections 87 and 88, and LIM345 Council resolution not to concur with the proposal, it was proposed that Section 154 of the Constitution of the Republic of South Africa be considered as the remedy available in terms of legislative prescripts under prevailing circumstances.
4. The Act supra states that “*the national and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions*”.
5. Section 154 empowers both national and provincial to support and strengthen the capacity of municipalities. Such support can be provided either by legislation or other *measures*. Therefore it falls within the ambit of other measures that both national and provincial governments can consider in supporting the municipality.
6. The LIM 345 Support and Development Package is also another initiative of ensuring a holistic approach to supporting the local municipality.
7. The success of Section 154 is however, dependent on cooperation betweenLIM345 Local Municipality and the provincial government to successfully implement both the Presidential pronouncement and the support and development package.
   * 1. **On the 03 August 2017, the Executive Council resolved as follows as per EXCO Decision No. 0f 2017/18:-**
        1. That the MEC for COGHSTA be mandated to invoke either Section 154 of the Constitution or Section 87 of the Municipal Structures Act to provide services in some Wards within the LIM345 Local Municipality;
        2. That the following government institutions should commence with the provision of services in Vuwani as follows:-
        3. Vhembe District Municipality to ensure effective water and sanitation provision;
        4. Department of Public Works, Roads and Infrastructure to allocate graders to focus on the roads and cemeteries in Vuwani;
        5. Department of Transport to render vehicle licensing services;
        6. Department of Economic Development, Environment and Tourism to render the waste management services; and
        7. Department of Co-operative Governance, Human Settlements and Traditional Affairs (CoGHSTA) to fast track the implementation of grant funded capital projects; and
        8. That the interim arrangement should be in line with the provisions of Section 87(4) of the Municipal Structures Act, which provides that “the MEC for local government must re-allocate that function or power to the original municipality when that municipality is in a position to resume the provision of those basic services”.
   1. **Stakeholder Engagements / consultations**

The following stakeholders were consulted on the EXCO Resolution as part of the implementation process:

* + 1. **Pro-Makhado Task Team**

The consultation meeting was held on 03 August 2017. The Task Team accepted EXCO Resolutions and urged government to ensure implementation with effect from 07 August 2017. A further consultation meeting was held on 05 September 2017, where it was resolved that the Vuwani Regional Offices should be re-opened and that other sector departments should begin to provide services as mandated. Another meeting was held on the 15 September 2017 in which the Pro-Makhado Task Team resolved that once the Traffic Station is opened they will consider calling off the shut-down.

* + 1. **Malamulele Task Team and Traditional Leaders**

The meeting was held on 04 August 2017.The stakeholder(s) raised the following objections on the report presented:-

1. That the decision by the Limpopo Provincial Government to commence with the provision of services in the affected wards in Vuwani as per the EXCO decision is not proper as a formal engagement has not been made with the LIM345 Municipal Council to seek their agreement in that regard;
2. That there is no written proof of the purported “Presidential Pronouncement” as mentioned in the report that was presented;
3. That there has never been any justifiable reason(s) provided for the refusal of certain wards to be serviced by LIM345 Municipality;
4. That the Constitutional Court has ruled in favour of the status quo on the Vuwani demarcation matter in May 2016, and yet the Limpopo Provincial Government continues to engage with the aggrieved stakeholders, which goes against the spirit of the Constitutional Court’s decision;
5. That despite the well documented cases of burning of schools around Vuwani during the shutdown in 2016 there have not been any arrests and convictions of the perpetrators; and
6. That the Provincial Government has not been able to convene an all-inclusive stakeholder engagement session on the Vuwani impasse to enable the different parties to engage and find a lasting solution on the impasse despite repeated requests to convene such a meeting.

**The meeting resolved that:**

1. A report on the concerns raised by Malamulele Task Team will be tabled to the Inter-Ministerial Committee on Vuwani for further engagement;
2. The EXCO Decision on the possible options for the rendering of services in some wards in Vuwani should not be implemented pending the tabling of the decision to the Council of LIM345 Municipality with a view of enlisting the support of the Municipality to implement the EXCO Decision;
3. A process flow towards an all-inclusive stakeholder engagement session on Vuwani will be developed and shared with all key stakeholders.
4. The South African Police Service (SAPS) should submit a comprehensive report on all cases opened since the commencement of the shutdown in Vuwani including the manner in which they were processed.
5. The Malamulele Task Team and Traditional Leaders further submitted a written response to the Premier indicating, among others, that:
6. The interpretation of Section 154 of the Constitution and applicability of Section 87 of Municipal Structures Act, 117 of 1998 seems flawed. The pieces of legislation do not provide for what is envisaged in the recommendations. The correct interpretation entails provision of support and strengthening of LIM345 Local Municipality to be able to perform its functions and exercise its powers.
7. The Task Team was unhappy with the fact that the meeting held on the 04 August 2017 was after Pro-Makhado was informed that the EXCO resolutions will be implemented.
8. The Task Team proposed that an engagement between two Task Teams be held as a matter of urgency with the view to finding a lasting solution and understanding is reached.
   1. **Implementation Plans from Sector Departments**

The Departments of Public Works, Roads and Infrastructure (PWRI) and Economic Development, Environment and Tourism (LEDET) submitted implementation plans for provision of services in the Vuwani wards.

* + 1. **Public Works, Roads and Infrastructure (PWRI)**

| **Function/ Service** | **Activities** | **Action Plan** | **Progress** |
| --- | --- | --- | --- |
| Cemeteries, Crematoria and Funeral Parlours | * Grading * Grave digging and * General Upkeep and maintenance of Cemetery | The Department is having a team on stand-by to respond to requests and assist as and when required | On the 10th of August graders were deployed to Vyeboom where three different families had death cases. |
| Road Maintenance | * Tarring and grading of streets * Routine road maintenance | The Department is having a team on stand-by to respond to requests and assist as and when required |  |

The department further provided officials to serve as support team on issues relating to LIM345 Local Municipality.

* + 1. **Economic Development, Environment and Tourism (LEDET)**

LEDET has appointed a service provider, and site meeting was held on the 22 September 2017 to finalise the Standard Operating Procedures, following which waste collection services will be rendered as from the 02 October 2017.

* + 1. **Department of Transport** 
       1. The department submitted a report on the provision of Registration and Licencing Services indicating that the function was devolved to Thulamela and Makhado Municipalities. LIM345 Local Municipality is the successor in title on the wards received from Makhado and Thulamela Local Municipalities. Municipalities are receiving 100% revenue collected on the testing and issuing of learner’s and driver’s licences, as well as professional driving permits. The department is receives 80% of revenue collected on the registration and licensing of motor vehicles and the municipality retains 20% of the revenue.
       2. The department is servicing LIM345 Local Municipality with traffic law enforcement in all provincial routes.
       3. LIM345 Municipality is responsible for the function of traffic and parking within its area of jurisdiction in terms of Schedule 5 Part B of the Constitution. The department is available to assist the municipality in terms of compliance to Road Traffic Regulations as part of Scheduled 4 Part A of the Constitution.
       4. The Vuwani Traffic and Testing Station has opened with effect from 18 September 2017 and the following functions are being performed, namely opening of vehicle files, renewal of vehicle licences, vehicle licence queries and driver licence queries.
  1. **Other activities supporting the implementation of EXCO resolutions** 
     1. **Social Cohesion programme**
        1. The Technical IMC meeting resolved during the meeting held on 17 August 2017 that the implementation of the Social Cohesion program is critical as part of the lasting solution.
        2. The Task Team comprising of Office of the Premier, Departments of National and Provincial Sports, Arts and Culture, Cooperative Governance inclusive of the Mediation Panel, Moral Regeneration Movement and affected municipalities (Vhembe District and LIM345 LM) was established to work on the programme. The team met on the 21 August 2017 and resolved that:

1. The Department of Sport, Arts and Culture should champion the task of developing a comprehensive Social Cohesion Strategy for LIM345, and that the task team should include the National Departments of Arts & Culture and COGTA.
2. The Strategy should provide specifics in terms of key objectives, milestones and timelines by which the strategy will be implemented.
3. The Task Team should develop a proposal on the convening of the Social Cohesion Dialogue / Seminar involving all key stakeholders within the LIM 345 Local Municipality.
4. That the Moral Regeneration Movement and/or Mediation Panel should champion activities aimed at mediating between two groups with a view of finding a lasting solution..
   1. **Stakeholder Engagement Dialogue**

As per the resolution of the meeting of 04 August 2017 with Malamulele Task Team and Traditional Leaders wherein a concern was raised about government’s delay in convening an a stakeholder engagement session, an all-inclusive stakeholder dialogue was held on 01 September 2017.

The following key stakeholders were invited namely: Limpopo Provincial Government (Executive Council); Vhembe District Municipality (Executive Mayor, Speaker and Chief Whip); LIM345 Local Municipality (Mayor, Speaker and Chief Whip), Senior Traditional Leaders for LIM345; Department of Cooperative Governance and Traditional Affairs (and the Mediation Panel); Pro-Makhado Task Team; Malamulele Task Team and the Pastors Forum.

The Pro-Makhado Task Team and Vhembe Pastors Forum did not attend the meeting. The meeting could not resolve the impasse on the divergent view with regards to the interim service delivery arrangements versus the need to support and allow LIM 345 to render services in its area of jurisdiction.

Subsequently, the Pro-Makhado Task Team resumed its shutdown on 05 September 2017 due to government’s delay in implementing the pronouncement.

* 1. **Intervention Plan**

The Limpopo Provincial Government responded to the shut down by directing all Departments to deploy officials to Vuwani to render their respective functions.

* + 1. **Opening of the Vuwani Offices**

The Vuwani Regional Office has been opened with effect from 07 September 2017. The Community Development Workers are currently manning the offices on daily basis. The Interim Project Manager from COGHSTA reports to the municipal offices three times a week and the District Municipality has appointed a project manager and provided general workers to do cleaning services in and around the office.

Various departments have also identified people that have been assigned to the office and rendering services as follows:

1. **Department of Transport**: The Traffic Office has been opened and various services are rendered. Preparations of the facility for driver testing are at an advanced stage.
2. **LEDET**: Appointment of service provider has been concluded and the service provider has commenced with the appointment of workers to render the service.
3. **DPWRI**: The department continues to render services on a need basis. There were however acts on intimidation of staff on 26 September 2017 as they were offloading concrete to fill potholes.

The critical service not rendered as per the identified functions is the issuing of proof of residence especially to the residents of Vuwani Township. This is a function that could be rendered by the Vhembe District Municipality, but would require availability of data and information to ensure that only legible people are issued with such proof.

Despite the office being opened, the shutdown still continues, with learners being the most affected, especially Grade 12 learners that have missed on their preliminary examinations. This will further affect their ability to finalise preparations for the end of year examinations scheduled to start on 25 October 2017.

**Meeting with the South African Human Rights Commission.**

The Direct General in the Province held a meeting with the South African Human Rights Commission led by Commissioner Makwetla on 21 September 2017. The Commission raised issues on violation of the children’s rights to education. The Director General explicitly explained the kind of challenges we encounter in the area and the strategies that the government is responding to them.

The Technical IMC on Vuwani continues to meet on a regular basis to assess the situation, and the Director General updates the concerned group on a regular basis.

There is however a need to put more emphasis on the implementation of the support and development package to ensure that focus is not only on stabilisation of the Vuwani area but that LIM345 is supported as a new entity.

* + 1. **Vuwani Project Management Framework**

A Vuwani project management framework has been developed as an interim mechanism to guide implementation of service delivery in Vuwani.

* + 1. **LIM 345 Support and Development Plan**

1. A support and development plan has been developed for LIM 345 and implementation thereof is monitored by the Premiers Office.
   1. **Social Cohesion** 
      1. **The Vuwani Mediation Panel**

The Ministry of COGTA appointed the Mediation Panel to assist the Ministry and the Limpopo Province in stabilising the Vuwani impasse. Members of the panel are the following;

* Father Smangaliso Mkhatshwa – Chairperson
* Mr. Mike Sutcliffe
* Mr. Joe Mohlakoana
* Professor Mary Metcalfe

The Mediation Panel identified a wide range of possible areas of intervention which included, amongst other things, the following: Boundaries demarcation options, social cohesion programme, development needs of the area, and state of municipal establishment process;

The Mediation Panel has to date met with a number of stakeholders. Platforms were also created to influence key players to a mediation and negotiation process. The Panel met, amongst others, with the following structures and organisations: Limpopo Provincial EXCO, MECs, COSATU, SADTU, Ministers, Religious Leaders, Traditional Leaders (Kingship, Provincial House, Local House), Vhembe Traditional Leaders, Provincial SALGA, Political Organisations, Student Movements, the Elites and many others;

The parties engaged by the Panel generally agreed with and supported the work of the Panel. In essence, the Panel has been successful in consulting stakeholders that were key to resolve the impasse in the Vuwani area;

The main focus of the Mediation Panel was to restore social cohesion in the area;

The only challenge experienced by the Panel was that the aggrieved parties did not want the Panel to mediate and negotiate on the best boundary demarcation options. Instead, the aggrieved parties called for reversal of the MDB decision;

The IMC has resolved to keep the Mediation Panel on standby and have access to the services of the Panel as and when the need arise.

**3.14.2. Research and nation building**

The Minister for COGTA wrote a letter to the Minister of Arts and Culture on 07 June 2017 requesting him to investigate the depth of tribalism manifestation in the Vuwani area and implement appropriate social cohesion programmes.

The Minister for COGTA requested the Ministry of Arts and Culture to conduct a study to establish the root causes of social conflict in the Vuwani area and come up with recommendations on how to resolve these conflicts.

The Department of Arts and Culture has acted on the request and is in the process of appointing the South African Cultural Observatory (SACO) which is the research hub for arts, culture and heritage sector to conduct the study. SACO is partnering with the University of Venda and Limpopo on this assignment.

The Department of Arts and Culture had sessions with the Thulamela Municipality and Vhembe District Municipality. The reception of these two Municipalities was not encouraging and most stakeholders did not attend the sessions

The Minister of Arts and Culture has earlier in 2016 directed that the Department should initiate conversations with the affected communities to bridge the divisions in the area;

Eight (8) social cohesion dialogues were conducted in the area from June 2016 to July 2016. The National Department of Arts and Culture is collaborating with the Provincial Department of Arts and Culture, the Vhembe District, local municipalities, traditional leaders and other stakeholders. The Social Cohesion Advocates from the National Department of Arts and Culture were deployed to facilitate the dialogues. The community dialogues took a more critical and phenomenological approach. These dialogues are meant to provide a dialogic platform to bridge socio-historical divisions that are based on ethnicity, gender, language, culture, etc.

The observation made is that ethnicity / tribalism is a key factor that continue to circumscribe social relations in the area. The effects of apartheid and the homeland system are some of the causes of the Vuwani impasse.

# ANALYSIS OF THE IMPASSE

# Too much focus and emphasis on the provision of services in the Vuwani and surrounding areas with lesser focus on the implementation of the LIM 345 support and development package is bound to fuel tensions between stakeholders in the region.

# Possible litigations by Malamulele Task Team considering their submission questioning the interpretation of Section 154 of the Constitution as well as the Constitutional Court judgment on the demarcation issue.

# Insufficient engagements with the LIM 345 municipality on the implementation of support programme might lead to intergovernmental tensions

# The sector Departments have expressed concerns that they may be challenged should they proceed and implement the EXCO Decision without the invocation of the applicable legislation by the MEC.

# 4.5. The expectation from the Malamulele Task Team and Traditional Leaders has indicated that the implementation of the EXCO Decision must be put on hold. Should Lim 345 Council be forced to enter into an agreement with Vhembe DM and sector departments to render services at Vuwani, then the total shutdown of the entire LIM 345 will be implemented.

# 4.6. The current climate in Vuwani and surrounding Villages is not conducive for the implementation of an envisaged Social Cohesion Programme taking into account the diverse and opposing views held by the different stakeholders on the Vuwani impasse. The PMDTT has rejected the participation of the Mediation Panel to promote social cohesion citing that the impasse is a political matter.

# 4.7. The Department of Arts & Culture is commissioning the research institute of the South African Cultural Observatory at the Nelson Mandela University to conduct empirical research on tribalism. Discussions led by the Limpopo Department of Sports, Arts and Culture are also underway with the University of Venda to collaborate with the national initiative.

# 4.8. Efforts to explore lasting solutions to the demarcation matter are being pursued.

# 4.9. 78 Schools (56 primary and 22 high schools) remained closed as a result of the shut – down thus denying learners access to education

# 4.10. The shut - down has been lifted on the 02 October 2017 and will be reviewed in the next two weeks.

# ORGANISATIONAL AND PERSONNEL IMPLICATIONS

Personnel from the Provincial Departments and the Vhembe District Municipality has been seconded to Vuwani.

# FINANCIAL IMPLICATIONS

The provincial Departments are bearing the financial costs for their respective employees seconded to Vuwani.

# CONSTITUTIONAL AND LEGAL IMPLICATIONS

Section 154 of the Constitution provide a broad framework for support by Provincial and National Government. The risk that LIM345 and the Malamulele Task Team can take legal action against the provincial government remains a possibility.

# OTHER DEPARTMENTS / BODIES CONSULTED

National and provincial sector departments, affected municipalities and various stakeholders are continuously engaged. Moral Regeneration Movement.

1. **RECOMMENDATIONS**

The following recommendations are submitted for consideration,

5.1. That the report be noted;

5.2. That the Portfolio Committee appreciate the interventions to date by the Limpopo Provincial Government and the national IMC.

**DES VAN ROOYEN, MP**

**MINISTER**

**Date:.................................**