**1. Report on the High Level Panel Report recommendations related to the mandate of the Portfolio Committee on Public Works, dated 12 February 2019**

**1. Background**

In February 2015, the National Assembly and the National Council of Provinces adopted the Strategic Plan (2014 – 2019) for the fifth sitting of the South African Parliament. This Strategic Plan stated that the fifth Parliament had to improve the work of Parliament. This improvement exercise had to be based on a review of the impact of legislation, as it was one of the key outputs of the work of Parliament.

In December 2015, the Speakers’ Forum, established the high-level panel that consisting of independent-minded eminent South Africans to undertake the task of assessing the content and implementation of legislation passed since 1994. The focus had to be on the effective impact and possible unintended consequences of the legislation that had been passed by Parliament since 1994.

The Panel’s mandate was to review legislation, assess implementation, identify gaps and propose action steps with a view to identifying laws that require strengthening, amending or change.

The former President of the Republic of South Africa, Mr Kgalema Motlanthe, chaired the Panel. The Panel’s work was divided into three main thematic areas: (i) poverty, unemployment and the equitable distribution of wealth, (ii) land reform: restitution, redistribution and security of tenure; and (iii) social cohesion and nation-building.

In processing the Panel’s report, the Portfolio Committee on Public Works focused on the specific matters that related to the public works portfolio. The Department of Public Works and the Committee deliberated on these aspects on 27 November 2018. At the meeting of 12 February 2019, the Committee considered and adopted its report on the Panel’s recommendations.

**2. The methodology and broad outcomes of the Panel’s assessment**

The Panel decided to hear directly from the public about how effectively or ineffectively the legislation that had been passed since 1994, impacted their lives. It wanted to understand what the possible unintended consequences were that people experienced due to the passing of these laws.

To do this, the Panel visited all nine provinces and held hearings where people shared their experiences directly with the Panel. The HLP also commissioned reports from experts and senior researchers on specific topics related to the effectiveness, implementation challenges and possible consequences of legislation. In addition to these methods, small consultative round tables and workshops interrogated the implementation challenges that people, organisations and government departments experienced.

The broad outcome of the deliberations with civil society, business, non-governmental organisations (NGOs), church-based organisations (CBOs), and the research community shows that the past of apartheid and separate development continues to be reproduced in the present post-apartheid South Africa. This continues in spite of the highly celebrated Constitution and legal framework along which post-apartheid South Africa has started to organize itself. The answer to the key question of what the effectiveness of the legislation that had been passed was on the lives of the people seemed bleak. However, the answers that were collected strongly signaled that some improvements were achieved, amongst these were that the mortality rate of children under five, and access to education significantly improved (Stats SA, 2014).

The Panel found that in spite of the post-apartheid government having put in place a myriad of legislation, it unfortunately did not significantly succeed in removing the deep inequities in the quality of services received in many instances. They also did not bring about fundamental shifts in how government delivered basic rights as contained in the Constitution. South African society therefore, in some areas seem to be ‘progressively realising’ the inclusive vision of the Constitution, while in others fundamental change must be drastically accelerated.

**3. The oversight focus of the Portfolio Committee on Public Works**

The portfolio of public works consists of the Department of Public Works (DPW), the Property Management Trading Entity (PMTE), the Construction Industry Development Board (CIDB), Council of the Built Environment (CBE), Independent Development Trust (IDT), and the Agrément South Africa (ASA).

Before dealing with whether and how the Portfolio Committee on Public Works has been giving effect to the recommendations of the HLP, it is prudent to set out the mandate of the DPW and the entities mentioned above.

The mandate of the DPW is as follows:

1. To transform the construction and property sectors through the development of policy and legislative prescripts (the DPW deals with this in collaboration with the CIDB).
2. To provide oversight of the public works sector (DPW).
3. To provide an oversight role in the implementation of Public Employment Programmes (PEPs). The DPW deals with this through the Expanded Public Works Programme (EPWP) that develops standardised frameworks for national departments, provincial departments and municipalities to implement through their own projects;
4. To oversee the efficient delivery of identified services to Prestige clients.
5. To support service delivery in a smart, proactive and business centric manner that is aligned to statutory requirements;
6. To build State capacity in the Built Environment Professions (BEPs) (This falls within the mandate of the CBE).
7. The DPW is an enabler of service delivery departments.
8. The DPW is also a coordinating department in terms of public employment programmes that are implemented by departments across the three tiers of government. In spite of the absence of legislation that explicitly state this main task and the mandate of the DPW, the Committee emphasised that in discussing the HLP recommendation report, this must be stated as a key aspect of the mandate of the DPW.

The rest of the report now focuses on matters related specifically to the portfolio of public works, which is the oversight focus of the Committee.

**4. Matters related to Public Works**

**Key challenges/gaps identified in the public works portfolio**

* Parliament is overly dependent on government departments with siloed interests for the drafting of law.[[1]](#footnote-1)
* Poverty, unemployment and inequality (the triple challenge) remain deeply etched in South African society. This is the case despite a progressive Constitution that guarantees a range of socioeconomic and related rights, redistributive fiscal policies and an extensive social safety net.[[2]](#footnote-2)
* To complement private sector job creation, government should maintain the Expanded Public Works Programme (EPWP). Scaling up the EPWP with skills transfer would contribute to curbing inequality.
* High levels of poverty are ascribed to the absence of employment opportunities for large numbers of people. The most frequently offered proposals included:[[3]](#footnote-3)
  + Expanding the EPWP, which was seen by many as offering at least some prospect of employment in areas where there was often no other significant source of employment;
  + In some cases, the suggestion that labour brokers be banned was expanded to include the banning of all temporary employment especially in government (which, it was proposed, should take EPWP workers onto its payrolls permanently); and
  + Rolling out larger publicly funded infrastructure projects to absorb more people who would otherwise not have jobs.
* If the low level of employment in agriculture helps explain the low level of employment overall, the low rate of growth of employment in non-agricultural activities has its roots in two factors: slow economic growth and the bias against labour-intensive economic activities that has become a hallmark of the country’s economic trajectory.[[4]](#footnote-4)
* What happens in the schools is clearly of critical importance to the educational efficacy of the system of basic education, with key issues including, the nature of the school’s infrastructure:
  + the size of classrooms,
  + the availability of ablution facilities,
  + libraries, and
  + laboratories.[[5]](#footnote-5)
* The absence of adequate school infrastructure is a concern where some schools are constructed of unsuitable materials including cases where communities have no other option but to operate schools in unsafe structures. This makes schooling difficult at best and impossible in adverse weather conditions. Several schools in rural areas lack important complementary infrastructure such as administration blocks, ablution facilities, and many lack laboratories and libraries.[[6]](#footnote-6)
* Infrastructure remains inadequate and conditions between schools of similar kinds vary enormously between urban and rural areas, as well as within urban areas. A special plea was made not to forget farm schools. Crucially to keep in mind is the plea that too few schools were accessible for learners with learning difficulties and those who live with physical impairments.
* Passing the Expropriation Bill will be delayed by the proposal that the Constitution be amended to allow for expropriation without compensation to address the slow and ineffective pace of land reform.[[7]](#footnote-7)
* The absence of an overarching policy that should address the continued fragmented geospatial arrangements in rural towns, larger urban centres, cities and metropolitan municipalities allows apartheid era patterns of under-development to continue. Spatial planning lacks sufficient institutional authority within the system of government.[[8]](#footnote-8)
* Parliament should introduce implementable laws and oversee their implementation properly. Parliament is over-dependent on government departments with siloed interests to draft law. This manifests in the lack of an integrated approach to address urban land needs. In this regard, the High Level Panel referred to specifically to the Departments of Rural Development and Land Reform, Co-operative Governance and Traditional Affairs, Public Works and Human Settlements.[[9]](#footnote-9)

**5. Findings on legislative work in the public works portfolio**

| **LEGISLATION** | **ISSUE RAISED** | **CONSEQUENCE** |
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| **Expropriation Bill [B 4D - 2015][[10]](#footnote-10)** | In 2016, the National Assembly (NA) and the National Council of Provinces (NCOP) passed a new ‘Expropriation Act (sic), but it was referred back [to Parliament] by the President for further consultation. Unlike the Expropriation Act of 1975, this Bill allows for expropriation ‘in the public interest’ and with ‘just and equitable’ compensation, as provided for in Section 25.’ | ‘The difficulty that all stakeholders face – claimants, landowners and the state – is the absence of clear guidelines to determine ‘just and equitable’ compensation in any particular case. There have been calls for the Constitution to be amended because of the belief that compensation is based on a willing buyer and willing seller. However, the willing buyer, willing seller formulation is not included in the Constitution.’ |
| **Government Immovable Asset Management Act (No. 19 2007) (GIAMA)[[11]](#footnote-11)** | The release of well-located public land in the cities can play a significant role in breaking up and disrupting spatial poverty traps.  State-owned enterprises holding public land should also be obliged to release it for developing affordable housing or well-situated schools, markets and other amenities that cater for the poor. This should take into consideration, as overarching principle, that well-situated land must be used to address spatial inequality before it can be released for other purposes. | Part of the problem has been lack of implementation of the GIAMA. GIAMA provides for a uniform framework for the management of an immovable asset that is held or used by a national or provincial department and it ensures the co-ordination of the use of an immovable asset with the service delivery objectives of a national or provincial department. It is thus important that legislation such as GIAMA is implemented in full and not selectively. |

1. **HLP Recommendations relevant to the public works portfolio**

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| **NO.** | **RECOMMENDATION** | **RELEVANT COMMITTEE/ JOINT OVERSIGHT** | **PRIORITY**  **(SHORT, MEDIUM, OR LONG TERM)** |
| **5.2[[12]](#footnote-12)** | Encourage expropriation of well-situated private land where landowners are holding it for speculative purposes. Section 25(3) of the Constitution specifies that the current use of a property should be taken into account when determining compensation. | Public Works, Human Settlements, Rural Development and Land Reform | Medium to Long |
|  | Establish consistent and coherent local, provincial, national and State-owned Enterprise (SOE) use, selection and disposal requirements and processes, including clear conditions that must be met before state-owned land can be disposed of. | Public Enterprises, Public Works, Human Settlements, Rural Development and Land Reform | Medium to Long |
|  | Effective oversight mechanisms and evaluation of current assets and public inspection of custodian and user immovable asset management plans as mechanisms to facilitate and promote transparency and accountability. | Public Works and All Custodian Departments (e.g. Police, Defence, Health etc.) | Medium to Long |
| **5.3[[13]](#footnote-13)** | Establish a co-ordinating structure responsible for spatial development, similar to the South African National AIDS Council (SANAC), which will be able to drive a coherent and co-ordinated spatial framework for South Africa. The key mandate of such a co-ordinating structure, led by the Deputy President, should be:   * To set national spatial development targets, shared between the three spheres and sector departments, linked to resources and timeframes. * To provide exemptions or fast-track arrangements in particular situations (e.g. upgrading informal settlements without having to follow the entire usual environmental, township establishment and other planning procedures). Special zones could be established in and around certain low-income townships and informal settlements to encourage private investment in productive activity. * Different zones could offer different management arrangements, types of infrastructure, financial incentives and relaxed regulations as an experiment to support investment, enterprise and job creation. | Public Works, Human Settlements, Rural Development and Land Reform, Transport | Medium to Long |
| **4.2b[[14]](#footnote-14)** | Parliament should ensure the following steps are taken to improve implementation of the Social Assistance Act (No. 13 of 2004):  vii. prioritise devising a means of addressing the plight of individuals who have no income but do not meet the criteria to receive grants; and  viii. collaboration between the Departments of Social Development and Public Works to ensure that Community Works Programmes complement social assistance programmes. | Public Works, Social Development, Rural Development and Land Reform | Medium to Long |

1. **Province-specific public works issues**

The HLP did not explicitly refer to public works sector-related issues that directly correlated to issues highlighted by participants in the different provinces. Some issues were raised in the HLP report (as noted below); however, others were found in the reports of the public hearings that were conducted by the High Level Panel in the different provinces.

* One of the most alluring features of South Africa is its geospatial economic arrangement. Most wealth-generating activities remain concentrated in predominantly urban nodes of Gauteng, the Western Cape, and KwaZulu-Natal. Gauteng is the economic powerhouse amongst the provinces. Despite occupying a mere two per cent of the national land mass, Gauteng produces more than a third of the country’s economic output. The province’s high rate of productivity has been attributed to exactly the compact space within which its economic activities takes place. This reduces the cost of transportation, enables quicker face-to-face communication, enhances economies of scale, promotes specialisation and facilitates knowledge spill overs and learning.[[15]](#footnote-15)
* Employment in Gauteng is concentrated in the three metropolitan areas of Johannesburg, Tshwane (Pretoria) and Ekurhuleni (East Rand).
* With respect to the other key economically strong provinces, economic activity is concentrated in the Western Cape (peri-urban and larger towns arranged around Cape Town) and KwaZulu-Natal (eThekwini, particularly Durban), although these metros (including some secondary cities) lag behind those in Gauteng.
* It was suggested at the public hearings in the Eastern Cape that: “Government should make best use of existing laws instead of enacting new legislation unnecessarily. An example is given of the Property Valuation Act (No. 17 of 2014) which introduces the novel (and possibly costly) concept of the Land Valuer General, over and above the existing Expropriation Act which can be used, should the need arise to expropriate land without compensation.”[[16]](#footnote-16)
* It was suggested during the Limpopo public hearings, that the Expropriation Act (sic)[[17]](#footnote-17) should be passed, [to include expropriation] without compensation in some cases.[[18]](#footnote-18)
* The public hearings in the North West revealed that communities believed that the processing of the Expropriation Bill into an Act was being used as a punitive measure against them, instead of being used to further the communities’ interests: “Expropriation Act **is** supposed to facilitate land reform, but is now used against the people. Community’s land claim involved the Dam, Game Reserve, and was regarded as a claim with good prospects. Signed a settlement agreement, designating the Dam as a national asset. Community thought they would benefit from the Dam, but no benefit to date, despite communicating with the Department of Water Affairs (sic).[[19]](#footnote-19) Got investors, but they want to know what the position is regarding the Dam. Received communication from the Department informing that they are expropriating the land and that they would come and value the land. This goes against the settlement agreement.”[[20]](#footnote-20)

1. **Engagements between the Portfolio Committee and the DPW:**

The Portfolio Committee invited the DPW to brief it on its responses to the recommendations of the High Level Panel during the Fourth Quarter of 2018.

* 1. **Summary of the deliberations:**

The Committee welcomed the presentation and appreciated the Department’s response to the High Level Panel (HLP) recommendations.

The Department stated that in the leasing environment, it formed panels of service providers to facilitate the awarding of contracts to companies that have a level of compliance with legislated transformation targets.

The Department had to explain how it was going to structure the employment of the Expanded Public Works Programme (EPWP) beneficiaries. The Committee was aware of standardised regulations that it put in place to ensure the non-partisan selection of beneficiaries across departments and the three tiers of government. It wanted the Department to share more detail on the mechanisms it planned to put in place to create longer term all-inclusive employment creation interventions with a particular focus on the youth in areas such as the Fourth Industrial Revolution and environment-friendly jobs.

The Committee was particularly interested to hear more about the EPWP expanding to longer-term entrepreneurial business creation for vulnerable groups. Emphasis had to be placed on collaborative programmes with other departments such as the Department of Small Business Development, Higher Education and Training, and Labour.

The Committee was pleased with the amendment to remove the limitation of two years for EPWP beneficiaries that the Minister of Labour announced in her Ministerial Determination for phase two of the EPWP. It stated that this showed that longer work opportunities could be created for beneficiaries.

Concerning strengthening the training component of EPWP in the future, a specific suggestion was made that artisan training had to take place through a renewal of artisan training or what used to be called apprentice boards. This required collaboration with the departments of Labour and Higher Education and Training.

Specific suggestions were further made that the EPWP had to look into working with the Department of Cooperative Governance and Traditional Affairs, so that municipalities could erect change rooms, ablution facilities, and medical care rooms where beneficiaries were working.

Regarding training of EPWP participants, the Committee referred to facilities such as the former Olifanstfontein Centre, which could be utilised to train beneficiaries to be artisans through apprenticeships.

Regarding the implementation of the policies that would lead to the eradication of urban primacy and monocentric spatial patterns, the Department was encouraged to focus on the Eastern Cape Province.

It was mentioned in the presentation that the PMTE was working in close collaboration with Department of Rural Development and Land Reform (DRDLR) to identify well-located land for agriculture and accelerated land reform processes so the Committee felt that the Department should also engage sources for economic development in terms of land for trade. There was a proposal that the Department should in collaboration with the Department of Small Business Development, find ways in which available state land may be made available for Small, Medium and Micro Enterprises (SMMEs) to trade.

The Department had to explain whether it had any relationship with other sister Departments in terms of resolving the challenge of privately owned land whose owners could not be traced.

The Committee proposed that the Department should review the work of the implementing agencies to ensure that all implementing agencies are fully capable to deliver the projects of the Department on time and on budget.

The Department was requested to confirm their level of engagement in the implementation of the Spatial Planning and Land Use Management Act (SPLUMA). Savannah City, a new development in Gauteng that would house about 18000 households, where government services would be needed was raised as an example. It was also alluded that client departments were already planning for the year 2022. The Committee wanted to establish whether the Department was also planning towards 2022 and 2030.

The Committee noted that many of the suggestions stated in the presentation meant that policy leadership and policy changes were urgently required. In this regard, the challenges noted throughout the year with the review of the White Paper on Public Works, that should have cleared up the mandate of the DPW and PMTE, was sorely needed. This would have ensured clarity on roles of the DPW/PMTE as owner and client departments as custodians. It would also have cleared up the mandate of the department so that its entities could, for instance exercise its mandate more robustly and effectively, to collect management fees across the three tiers of government.

In addition, the review of the Public Works White Paper on the transformation of the built environment and construction industry would have assisted with more effective policy and regulation to transform the industry and create more work across the sector for emerging contractors and built environment professionals from formerly marginalised sectors.

* 1. **Key Challenges, Proposals and DPW Strategies**

The DPW briefed the Committee on the key challenges and proposals as identified in the HLP Recommendations Report and further outlined its strategies and responses to the identified issues per category.

* + 1. **Employment Creation and Sustainable Development**

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| **KEY CHALLENGES** | **PROPOSALS** |
| 1. **Embedded poverty, unemployment and inequality**   **DPW Strategies / Responses:**  Many of DPW’s interventions are aimed at empowerment within the existing legislative environment (e.g. BBBEE Act and the Preferential Procurement Act. In the leasing environment, DPW has taken to forming panels of service providers, to facilitate awarding of contracts to companies that have a significant level of compliance with transformation targets.  DPW’s entities at the coalface of driving transformation. Public Employment/Works Programmes (PEP/PWPs) are critical to addressing the cited challenge. | 1. **Expanding EPWP**   **DPW Strategies / Responses:**  EPWP design focuses relevant, longer-term, all-inclusive job creation interventions with a particular youth focus in areas such as Green Jobs, Fourth Industrial Revolution (4IR).  (On a macro-level, fiscal discipline critical to ensure affordability of funding.) |
| 1. **Short-termism of EPWP**   **DPW Strategies / Responses:**  The EPWP Ministerial Determination has been amended in Phase 2 of the programme to remove the limitation of the 2 years on the participation of workers so that they could be employed for longer periods.  This is especially important, especially in cases where participants would have no other work opportunity if EPWP did not exist.  The current EPWP strategy advocates for longer duration of work opportunities and provides public bodies with incentives on this basis. | 1. **Banning temporary work**   **DPW Strategies / Responses:**  Short-term work opportunities in EPWP provide a form of Social Protection especially in the current poor economic environment. |
| 1. **Bias against labour-intensive economic activities** 2. **Rolling out larger publicly funded infrastructure**   **DPW Strategies / Responses:**  Large numbers of unemployed and unskilled population – a legacy of apartheid - makes it important to design interventions that provide economic opportunities for the less skilled members of society.  The EPWP was devised specifically to deal with this challenge; hence, labour intensive approaches are embedded within the interventions. The main challenge is when dealing with major infrastructure projects that rely heavily on technology for swift delivery. Nonetheless, there is an emphasis on using sub-contractors, who normally bring that aspect of labour-intensiveness in project execution. | 1. **Scaling up the EPWP with skills transfer**   **DPW Strategies / Responses:**  Skilling of communities for adaptability of livelihoods consequently leading to reduction in inequality  Proposal supported and more projects being unlocked within the fiscal constraints. |

* + 1. **Immovable Asset Management**

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| **Key Challenges** | **Proposals** |
| 1. **Inadequate and inappropriate infrastructure, in particular education facilities.**   **DPW Strategies/Responses:**  Working with the relevant Departments, in this case the DBE to develop and enforce uniform standards for the provisioning of social infrastructure. The ASIDI programme has been championed in order to deal specifically to address the cited challenge. The DPW collaborates in this regard with entities such as IDT, DBSA and COEGA.  Public works is a concurrent mandate of national and provincial spheres. The Public Works White Papers Review project also focuses on the critical aspects of mandate, functions and roles of different government institutions with respect to the discharge of the public works function. | 1. **Effective oversight mechanisms and evaluation of current assets and public inspection of custodian and user immovable asset management plans as mechanisms to facilitate and promote transparency and accountability**   **DPW Strategies/Responses:**  Effective oversight mechanisms and evaluation of current assets and public inspection of custodian and user immovable asset management plans as mechanisms to facilitate and promote transparency and accountability. |

* + 1. **Spatial Planning and Land Use Management**

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| **Key Challenges** | **Proposals** |
| 1. **Urban primacy (economic dominance of Johannesburg, Cape Town and eThekwini)**   **DPW Strategies / Responses**:  The available suite of policies and legislation are designed to facilitate the levelling of the economic landscape in order to equitably spread economic activity and opportunities | 1. **Establish consistent and coherent use, selection and disposal requirements for state-owned land.**   **DPW Strategies / Responses:**  The draft National Spatial Development Framework (NSDF) for which PMTE provided inputs into aligns its investment infrastructure strategies to the framework guidelines. |
| 1. **Monocentric Gauteng metro**   **DPW Strategies / Responses:**  The implementation of the policies will lead to the eradication of urban primacy and monocentric spatial patterns. | 1. **Identification of well-located State land to address spatial inequality and land reform programme.**   **DPW Strategies / Responses:**  Surplus land not required to fulfil PMTE accommodation requirements will be made available for land redistribution purposes.  PMTE is working in close collaboration with Department of Rural Development and Land Reform (DRDLR) to identify well located land for agriculture and accelerated land reform processes |
| 1. **Lack of overarching approach and appropriate institutional framework for spatial planning**   **DPW Strategies / Responses:**  HLP Report already proposes the establishment of a co-ordinating structure responsible for spatial development.  The proposal is supported within the ambit of intergovernmental prescripts. | 1. **Expropriation of well-situated private land where landowners are holding it for speculative purposes.** 2. **Redistribution of well-located land (to citizens) in cities owned by Government and companies**   **DPW Strategies / Responses:**  The Expropriation Bill is expected to give clarity in the areas of expropriation, redistribution of land and institutional arrangements with respect to various aspects of land.  Other instruments and measures will be formulated and implemented where need arises through interdepartmental platforms such as the current Inter-ministerial Committee (IMC) on Land Reform. |

* + 1. **Policy and Legislation**

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| **Key Challenges** | **Proposals** |
| 1. **Siloed interests of departments encumbers Parliament’s legislative role**   **DPW Strategies / Responses**:  Participation in inter-departmental platforms to inform policy.  There are existing forums for collaboration between Government Departments, FOSAD, the Ministerial Clusters, and Inter-Ministerial Committee formed to deal with specific cases of service delivery and inform the development of both policy and legislation. | 1. **Expropriation of well-situated private land where landowners are holding it for speculative purposes** 2. **Review and strengthen the legal framework governing the disposal of SOE-owned land**   **DPW Strategies / Responses:**  The Expropriation Bill is expected to give clarity in the areas of expropriation, redistribution of land and institutional arrangements with respect to various aspects of land. Other instruments and measures will be formulated and implemented where need arises through interdepartmental platforms such as the current IMC on Land Reform. |
| 1. **Defining and contextualising ‘just and equitable compensation’ with respect to the land question**   **DPW Strategies / Responses:**  The South African Constitution of 1996 defines just and equitable in section 25(3) reflecting an equitable balance between public interests and the interests of those affected.  The Department developed the Expropriation Bill, in order to align expropriation to provisions of the Constitution and provide for just and equitable compensation. | 1. **Avoid legislative ‘spaghetti’, i.e. introducing a law each time an issue arises or becomes topical, e.g. expropriation without compensation**   **DPW Strategies / Responses:**  Surplus land not required to fulfil PMTE accommodation requirements will be made available for land redistribution purposes.  PMTE is working in close collaboration with Department of Rural Development and Land Reform (DRDLR) to identify well located land for agriculture and accelerated land reform processes |
| 1. **Delays foreseen in passing the Expropriation Bill (due to calls for ‘expropriation without compensation’ clause)**   **DPW Strategies / Responses:**  President remitted Expropriation bill [B4D-2015] in 2017. Parliament then withdrew this bill on the 4th September 2018.  Currently DPW is in the process of redrafting the new bill that shall cater for expropriation without compensation in an explicit manner.  DPW will await the outcome of the decision by Parliament. | 1. **Avoid legislative ‘spaghetti’, i.e. introducing a law each time an issue arises or becomes topical, e.g. expropriation without compensation**   **DPW Strategies / Responses:**  Parliament is the law-making body in the country.  DPW supports the national legislature by carrying out requisite research, drafting of and consulting on Policy development and Bills. |
| 1. **Non-/partial implementation of GIAMA**   **DPW Strategies / Responses:**  All user and custodian departments throughout national and provincial spheres of government are currently implementing GIAMA.  A GIAMA Implementation Technical Committee was established immediately upon promulgation of the Act to oversee the full implementation of the GIAMA. |  |
| 1. **Perception that Expropriation Bill and powers to expropriate will be used against communities**   **DPW Strategies / Responses:**  The Parliamentary Constitutional Review Committee has conducted public hearings across the country to solicit public views on land reform, including expropriation.  Government has addressed the public fears in that its position is that expropriation should be done within the confines of the law and without compromising food security and economic production. |

* 1. **Proposals emanating from the Public Works Diagnostic Report**

The Committee underscored that the following proposed actions would strengthen the DPW’s mandate to address recommendations made in the HLP Report:

* + 1. Rethink the notion of ‘Public Works’ and develop a New White Paper for the sector by 2019. The White Paper should be predominantly outward looking*.*
    2. Prioritise performance over Mandate, but develop Public Works Act by 2019 to clarify mandate, functions, roles and institutional arrangements, and empowerment of Minister to regulate and transform construction and property industries and BEPs.
    3. Design appropriate policies to leverage on public sector infrastructure spend to achieve Government’s objectives.
    4. Integrated policy development and policy management.
    5. Develop and enforce Construction Act.
    6. Rationalise Public Entities under DPW – There was a need for dedicated Construction Management Entity.
    7. Call for the establishment of a Construction and Property Ombudsman.
    8. Establish Property Industry Development Board.
    9. Invest in institutionalisation and, capacity development and retention in all areas of the mandate.
    10. Transform the culture and enhance the capacity of the public works capacity to enable it (that is the sector) to effectively play its role.

1. Report of the High Level Panel, 2017, p. 58. [↑](#footnote-ref-1)
2. *Ibid.*, p. 85. [↑](#footnote-ref-2)
3. *Ibid*., pp. 90-1. [↑](#footnote-ref-3)
4. *Ibid*., pp. 117-8. [↑](#footnote-ref-4)
5. *Ibid*., p. 141. [↑](#footnote-ref-5)
6. *Ibid*., pp. 147-8. [↑](#footnote-ref-6)
7. *Ibid.*, p. 300. [↑](#footnote-ref-7)
8. *Ibid* p. 458. [↑](#footnote-ref-8)
9. *Ibid*., p. 459. [↑](#footnote-ref-9)
10. *Ibid*., p. 207. [↑](#footnote-ref-10)
11. *Ibid*., p. 459. [↑](#footnote-ref-11)
12. *Ibid*., p. 461. [↑](#footnote-ref-12)
13. *Ibid*., pp. 462-4. [↑](#footnote-ref-13)
14. *Ibid*., p. 559. [↑](#footnote-ref-14)
15. *Ibid*., p. 159. [↑](#footnote-ref-15)
16. HLP (2016), p. 4. [↑](#footnote-ref-16)
17. In hearings, reference has often been made to the Expropriation as an Act of parliament that “should be passed”. It must be recorded that it has not been passed as an Act but is in fact, the Expropriation Bill [B4D- 2015]. [↑](#footnote-ref-17)
18. HLP (2017a), p. 9. [↑](#footnote-ref-18)
19. The name of the Department as of 2009 is the Department of Water and Sanitation, and no longer Water Affairs. [↑](#footnote-ref-19)
20. HLP (2017b), pp. 1-2. [↑](#footnote-ref-20)