**Report of the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlement on Pro-Active Oversight Visit to Maluti–A Phofung Local Municipality, Dated: 23 November 2022**

**1. Introduction And Background**

* 1. The Select Committee On Co-Operative Governance And Traditional Affairs, Water, Sanitation And Human Settlement, Having Conducted Proactive Oversight Visit On 16th August 2002 To Maluti A- Phofung Local In Free State Province, Reports To The National Council Of Provinces As Follows:

**2. Objectives Of The Proactive Oversight Visit**

2.1. To Assess The State Of The Local Municipality In Terms Of Organisational Development And Transformation; Service Delivery; Financial Management, Local Economic Development; Good Governance And Public Participation

2.2. To Engagement Department Of Cooperative Governance And Traditional Affairs, The South African Local Government Association And The Municipal Leadership On The State Of The Municipality And Support Provided To The Local Municipality In Terms Of Section 154 Of The Constitution

2.3. To Solicit The Opinions Of Political Parties Represented Within The Municipality, Representatives Of Organised Labour, Business, Youth, Women Forums As Well The Traditional Leaders On The Challenges Faced By The Local Municipality In Performing Its Constitutional And Implementing The Strategic Objectives Of Local Government Within The Community.

**3. Delegation Of The Select Committee**

3.1. The Delegation Of The Select Committee Was Composed Of The Following Members Of Parliament And Officials: Hon B N Ndongeni (Anc); Eastern Cape; Hon E M Mthethwa (Anc), Kwazulu-Natal; Hon N H Hadebe (Ifp), Kwazulu-Natal; Hon M Barttlet (Anc) Northern Cape; Hon Im Sileku (Da), Western Cape; Hon K Motsamai (Eff), Gauteng, Hon S Zandamela (Eff), Mpumalanga; Hon A D Maleka (Anc), Mpumalanga; Hon Ms S Shaikh ( Anc) , Limpopo; Hon Tsc Dodovu (Anc); North West; Mr Tm Manele (Committee Secretary), Mr N Mfuku(Content Advisor), Mr B Lwazi (Committee Assistant) Mr M Mbebe (Procedural Officer)

**4. Overview Of Proactive Oversight Visit To Maluti-A Phofung Local Municipality**

4.1. During The Period Of The Proactive Oversight Visit, The Delegation Of The Select Committee Interacted With The Internal And External Stakeholders Of The Local Municipality. The Free State Department Of Cooperative Governance And Traditional Affairs And The South African Local Government Association Briefed The Delegation On The Status Of The Municipality Including The Support Provided To The Local Municipality

4.2. The Acting Municipal Manager Of The Local Municipality Briefed The Delegation On The State Of The Municipality. The Representatives Of The Da, Eff, Anc, Dpp, Imatu, Sammu Shared Their Opinions And Concerns About The State Of The Local Municipality

**5. Briefing By The Department Of Cooperative Governance And Traditional Affairs (Cogta)**

5.1. The Head Of Department Of Cogta Briefed The Delegation Of The Select Committee. The Presentation Focused On Support Provided To The Municipality In Terms Of Section 154 Of The Constitution In Respect Of Ward Committees, Public Participation, Indigent And Community Work Programme And Municipal Performance.

5.2. The Department Reported That The Municipality Was Assisted With The Development And Adoption Of Guidelines For The Establishment Of The Ward Committees; Framework For The Payment Of Out Of Pocket Expenses, Public Participation Policies

5.3. The Department Further Supported The Local Municipality With The Implementation Of The Indigent Registers In Line With National Guidelines On Indigent Policies. Additional Support Also Included The Capacitation Of Councillors Through Induction On The Implementation Of The Community Work Programme

5.4. The Local Municipality Was On Matters Related To Organizational Development And Transformation Supported With The Development Of Performance Management System, Process Plan On Recruitment, Selection And Appointment Of Senior Managers.

**6. Briefing By Maluti-A-Phofung Local Municipality**

6.1. The Acting-Municipal Manager Briefed The Delegation Of The Select Committee On The Status Of The Local Municipality. The Presentation Focused On Organisational Development And Transformation, Service Delivery, Financial Management, Local Economic Development, Good Governance And Public Participation

6.2. The 2023/2024 Idp & Budget Process Plan Was Tabled At The Idp & Pms Portfolio Committee On 03 August 2022 And It Will Follow All Council Processes Until Adopted By Municipal Council Before The End Of August 2022. The Municipal ‘S Organizational Structure Is At Local Labour Forum And Will Be Considered By Council After Costing During September 2022

6.3. The Municipality Has Advertised And Interviewed Section 56 Candidates And Competency-Based Assessments Has Been Conducted. The Local Municipality Has Been Interdicted For The Positions Of Directors Of Community Services, Public Safety, Transport And Protection Service.

6.4. The Position Of The Director: Human Settlements, Spatial Development Planning And Traditional Affairs Is Currently Vacant And Will Be Advertised On The National Newspapers On Sunday, 14 August 2022. The Contract Of The Municipal Manager Will Be Ending On 30 November 2022 And Will Also Be Advertised On The National Newspapers On Sunday, 14 August 2022

6.5. The Consolidated Annual Operating Revenue Is Projected To Be R1.9 Billion (R1 899 Billion) For The 2022/23 Financial Year, Which Represents An Increase Of 9% From The 2021/22 February Adjustment Budget. This Is Mainly Due To The Credit Control Enforcement Efforts Made, An Average 5.9% On Service Charges And The Implementation Of Flat Rate In 21 Rural Wards From The 1st Of July 2022

6.6. The Municipality Has Received The Final Management Letter And Audit Report For The 2020/21 Financial Year. The Municipality Has Also Developed The Audit Action Plan To Address Issues Raised. The Municipality Is Anticipating To Finish The 2021/22 Financial Statements On 31 September 2022. Financial Recovery Plan Developed And Submitted To Treasury In June 2022.

6.7. The Municipality Has Appointed A Service Provider To Assist The Municipality In Preparing A Complete Asset Register Starting From The Financial Year 2021/22. Final Asset Register To Be Submitted On 31 October 2022. The Financial Statements For The Financial Year 2021/22 Will Be Submitted On 31 October 2022. These Financial Statements Will Be Accompanied By Complete Asset Register

6.8. The Municipal Council Is Fully Functional And The Meetings Are Held As Per Schedule. Oversight And Accounting Functions Are Thus Being Performed Section 79 & 80 Committees Have Been Elected And Meeting Regularly Mayco Constituted And Meeting As Per Schedule Portfolio Committees Are Meeting As Per Their Schedules. Performance Audit Committee Constituted And Functioning. Mpac Constituted And Meeting.

6.9. The Local Municipality Reported That It Has Made Progress In Respect Of Removal And Collection Of Waste, Illegal Dumping, Appointment Of A Professional Service Provider, Job Creation Through Expanded Public Works Programme (Epwp), Completion Of Rroads Master Plan, And Completion Of Projects Related To Uupgrading Of Charles Mopeli Stadium, Upgrading Of Intabazwe Taxi Facility And Indoor Sport Facility.

**7. Briefing By South African Local Government Association (Salga)**

7.1. The Senior Official Of The Salga Briefed The Delegation Of The Select Committee On Support Provided To The Local Municipality.

7.2. The Presentation Focused On Service Delivery, Water And Sanitation; Audit Outcomes; Municipal Governance; Section 56 And 57, Support And Igr Participation In The Active Partnering Model.

7.3. Salga Played A Key Role In Supporting The Administration Team To Engage Suppliers, National Treasury And Facilitation Of The Implementation Of Task Job Evaluation System. •Provided Capacity Building To Mpac, Spluma Implementation, Training Of Councillors After By-Elections In 2019. •Supporting The Administrator With Recruitment Of Senior Managers And Conducting Of Strat Plan In Feb 2020 To Formulate A Strategic Recovery Plan For The Institution

7.4. Salga Conducted Capacity Building Programme For Councillors And Senior Officials Focusing On Performance Management, Unauthorized, Irregular, Wasteful And Fruitless Expenditure Investigations And Reduction Strategies And Rolling Out Water And Sanitation Based Portfolio Capacity Building Programme

 7.5 Members Of The Municipal Public Accounts Committee Were Capacitated On Treasury Toolkit And Guide; Municipal Reporting Cycle, Regulations On Financial Misconduct, Annual Financial Statement, Ethics, Integrity Management; Consequence And Accountability Management

**8. Opinions Of The Internal And External Stakeholders Of The Local Municipality**

8.1. The Representative Of The Democratic Alliance (Da) Raised Concerns About Lack Of Accountability, Sharing Of Information, Non-Compliance To Municipal Procedures And Non-Setting Of Some Of The Portfolio Committees Of The Municipality.

8.2. The Representative Of The African National Congress (Anc) Raised Concerns About Lack Of Leadership, Organised Labour Running The Municipality, Political Instability, Leadership Failure To Provide Policy Direction, Failure Of Administrators Appointed In Terms Of Section 139 (1) (B) Of Constitution To Improve The Municipality, Non- Setting Of Some Of The Section 80 Committees.

8.3. The Representative Of The Economic Freedom Fighters (Eff) Raised Concerns About Political Battles At The Expense Of Service Delivery, Problems About The Appointment Of Municipal Directors, Special Council Meeting Without Tabling Of Reports, And Loss Of Community Trust As The Result Of Municipal Failure To Provide Services To The Community.

8.4. The Representative Of The African Transformation Movement (Atm) Raised Concerns About Problems In The Municipal Administration And Expressed Hope That The Current Acting Municipal Manager Will Deal With The Challenges Facing The Local Municipality.

8.5. The Representative Of The Dikwankwetla Party Of South Africa (Dpsa) Raised Concerns About Lack Of Leadership, Political Intimidation By Organised Labour, Suspension Without Reason Of Senior Official, Officials Stealing Of The Property Of The Municipality, Non-Collection Of Refuse Removal, Municipal Failure To Fight Corruption.

8.6. The Representative Of Imatu Raised Concerns About Lack Of Municipal Improvement Since 2018, Lack Of Tools Of Trade, Poor Working Conditions, Non –Implementations Of The Resolution Of Local Labour Forum, Lack Of Political Leadership And Non-Functioning Of The Troika.

8.7. The Representative Of The Sammu Raised Concern About Municipal Dysfunctionality, Political Interference In Administration, Suspension Of Officials Without Following Proper Procedures, High Level Of Litigations, Vacant Positions, Appointment Of Junior Officials Into Senior Positions Without Qualifications And Lack Of Responses And Leadership From The Mayor. The Representative Of Map 16 Civic Movement Acknowledged Municipal Improvements But Raised Concern About Service Payments.

8.8. A Member Of The Portfolio Committee On Cooperative Governance And Traditional Affairs In Free State Provincial Legislature Raised Concerns About Non-Functionality Of The Municipal Council, Non-Submission Of Financial Reports To The Committees And Council, Lack Of Support Staff To Municipal Public Accounts Committee (Mpac), Appointment Of Officials Without Minimum Requirements, Unfunded Budget, Lack Of Proper Billing System, And Tabling Of Service Delivery Budgetary Implementation Plan.

8.9. The Representative Of The Traditional Leaders Acknowledged The Challenges Facing The Local Municipality. The Major Concerns Raised By The Representative Relate Provision Of Basic Service Delivery, Potholes, Municipal Instability And Functioning Of Municipal Committee.

8.10. The Representative Of Women In Construction Raised Concerns About Lack Of Opportunities For Women To Provide Work To The Municipal Projects, Hiring Of Outside Contractors In Municipal Projects Including Potholes Work. The Representative Called For Municipal Consideration Of Contracting Local Women Construction Companies.

8.11. The Representative Of The Map Black Business Chamber Raised Concerns About Non-Recognition Of Registered Business Forum, Lack Of Public Consultation And Participation, Absence Of Offices Of Bloemhof In The Local Municipality, Installation Of Mitre Boxes. The Representative Threatened To Stop The Operations Of Bloemhof And Eskom In The Local Municipality

8.12. The Representative Of The Letshabile Business Chamber Raised Concerns About Non-Submission Of Financial Statement, Lack Of Oversight Function By The Department Of Cogta, Rampant Corruption, Political Interference In Business, Unfair Of Tenders Within The Local Municipality.

8.13. A Member Of The Local Community Raised Concerns About The Impact Of Load Shading, Water Spillages, Lack Of Access To Electricity, Incomplete Vip Toilets And Potholes. The Representative Welcomed The Arrest Of The Municipal Manager And Commitment By The Municipality To Fight Corruption.

**9. Observations Of The Select Committee**

9.1. The Select Committee Has Observed That Malut-A Phofung Local Municipality Has Since 2018 Experienced Challenges Related To Organisational Development And Transformation, Financial Management And Viability, Service Delivery, Local Economic Development, Good Governance And Public Participation

9.2. The Select Committee Has Noted That Prior To 2019 Local Government Election, The Local Municipality Was Placed Under Section 139 (1) (B) Of The Constitution By The Free State Department Of Cooperative Governance And Traditional Affairs And That The Intervention Has Since Been Withdrawn

9.3. The Select Committee Has Further Noted The General Concerns Raised By The Internal And External Stakeholders On Matters Related To Lack Of Section 139 Intervention Impact, Poor Leadership, Political Instability, Poor Service Delivery, Stealing Of Municipal Property, Unfair Tender Practices Impacting On Women, Non- Tabling Of Mpac Reports To The Council, Non –Functioning Of Some Of The Section 80 Committees Poor Consultation And Public Participation Of Some Wards, Non–Implementation Of Llf Resolutions, Absence Of Service Delivery And Budget Implementation Plan And Slow Process Of Filling Critical Vacant Positions

9.4. The Select Committee Has Observed That Most Of The Municipal Strategic Documents Which Are Relevant For Local Economic Development (E.G. Local Economic Development Strategy; Tourism Sector Plan; Agricultural Sector Plan; Investment Policy; Revitalizations Of Shopping Centre, Waste Collection; Agri-Village, Feedlot, Fodder Bank; Abattoir) Are Still At Conceptual And Initial Stages

9.5. The Select Committee Has Noted With Serious Concern That Despite The Capacity Building Programme Of Salga To Capacity Members Of Mpac, The Latter Is Failing To Table Investigation Reports To The Council For Consideration And Adoption

9.6. The Select Committee Has Noted That The General Concerns Raised By The Internal And External Stakeholders Revolve Around Dysfunctionality Of The Municipality, Poor Municipal Leadership, Criminality On Municipal Property, Non- Functionality Of Some Section 80 Committees, Non- Tabling Of Reports To The Council, Unfair Tender Allocation Practices, Lack Of Consultation And Public Participation At Ward Levels.

9.7. The Select Committee Has Noted And Welcomed The Executive Undertaken By The Deputy Minister Of The Department Of Cooperative Governance And Traditional Affairs To Provide Support To The Local Municipality

9.8. The Select Committee Further Welcomed The Partnership That Has Been Established By Eskom, Salga, Cogta And Local Municipality To Address Electricity Crisis, Debts, Revenue Generation, Technical And Financial Sustainability And The Commitment Of The Department Of Cooperative Governance And Traditional Affairs To Comply With All The Treasury Requirements For Approval

9.9. The Select Committee Has Further Noted That The Municipality Continues To Experience Spontaneous Disruptive Protests As A Result Of Erratic Water And Electricity Supply., Debt Owed To The Department Of Water And Sanitation Amount To Half A Billion, S Non -Compliant To Green Drop Water Service And Eskom Historic Debt Of R6.6 Billion

**10. Recommendations Of The Select Committee**

10.1. Having Conducted Proactive Oversight Visit And Interacted With The Internal And External Stakeholders Of Maluti A Phofung Local Municipality, The Select Committee Recommends To The National Council Of Provinces That:

10.1.1 In With The Executive Undertaken By The Deputy Minister Of The Department Of Cooperative Governance And Traditional Affairs, The South African Local Government Association And The Free State Department Of Cooperative Governance And Traditional Affairs Should Jointly Provide Continue Support In Terms Of Section 154 Of The Constitution To Local Municipality.

10.1.2. The Joint Support (I.E. Deputy Minister Cogta, Mec Cogta & Salga) Should Focus But Not Limited To Assisting The Local Municipality To Have Capacitated, Functional And Resourced Mpac, Filling Of Critical Vacant Positions, Implementation Of Performance Management System, Development And Implementation Of Financial Recovery Plan, Development And Implementation Of Municipal Audit Action Plan, Development And Implementation Local Economic Development Strategy, Development And Implementation Of Service Delivery And Budget Implementation Plan,

10.1.3 The Local Municipality Should Fast Track The Process Of Engaging Land Reform And Rural Development As Well As Hda For Land Donations Or Purchase For The Smart City Plan. The Municipality Should Also Fast Track The Process Of Tabling The Local Economic Development Strategy To The Council For Adoption And Implementation

10.1.4. As Part Of Improving Municipal’s Organisational Development And Transformation, The Acting-Municipal Manager Should Implement The Resolutions Of Local Labour Forum (Llf) In Line With Approved Municipal Organisational Structure, Competency Requirements And Grading Systems And Also Fast The Process Of Filling Critical Vacant Positions Of Directors Of Human Settlement, Spatial Planning And Development

10.1.5. The Local Municipality Should Develop Time Frames And Fast Track The Process Of Handing Out Of 300 Title Deeds In Qwaqwa And Review Of Farmlands Contracts

10.1.6. As Part Of Dealing With Electricity Crisis And Eskom Historic Debt Of R6.6 Billion, The Free State Department Of Cooperative Governance And Traditional Affairs Should Fast Track The Process Of Submitting The Proposed Eskom’s Partnership Agreement Model To The National Treasury For Consideration.

10.1.7. The Mec Of The Department Of Cooperative Governance And Traditional Affairs Should Table The Notice Of Intervention In The Local Municipality In Terms Of Section 139 (5) Of The Constitution To The National Council Of Provinces And The Free State Provincial Legislature So As To Ensure Constitutional And Procedural Compliance.

10.1.8. The Mec Of The Department Of Cooperative Governance And Traditional Affairs Should Investigation Allegations Of Corruption And Stealing Of Municipal Properties By The Officials And Table Report Of Findings To The National Council Of Provinces And Provincial Legislatures.

10.1.9. The Mec Of The Department Of Cooperative Governance And Traditional Affairs Should Notifying The National Council Of Provinces And The Free State Provincial Legislature About The Invocation Of Section 139 (5) Of The Constitution In The Local Municipality, Provide Quarterly Reports On The Implementation Of Intervention.

10.1.10. The Free State Department Of Cooperative Governance And Traditional Affairs Should Upon Adoption Of This Report By The National Council Of Provinces Ensure That The Local Municipality Shares The Report With The Internal And External Stakeholders Of The Local Municipality.

10.1.11 The Select Committee On Cogta To Coordinate Joint Follow Up Oversight Visit During The 2023 First Term With The Portfolio Committee On Cogta In Free State Provincial Legislature To Assess The Progress Made In Respect Of The Implementation Of The Above Mentioned Recommendations In Maluti-A-Phofung Local Municipality

***Report To Be Considered***