

# SELECT COMMITTEE

**BRIEFING BY THE DEPARTMENT OF PUBLIC ENTERPRISES ON THE PROGRESS MADE REGARDING THE IMPLEMENTATION AND COMPLETION OF THE DEED SETTLEMENT BETWEEN ALEKOR AND RICHTERSVELD COMMUNITY.**

JUNE 2023

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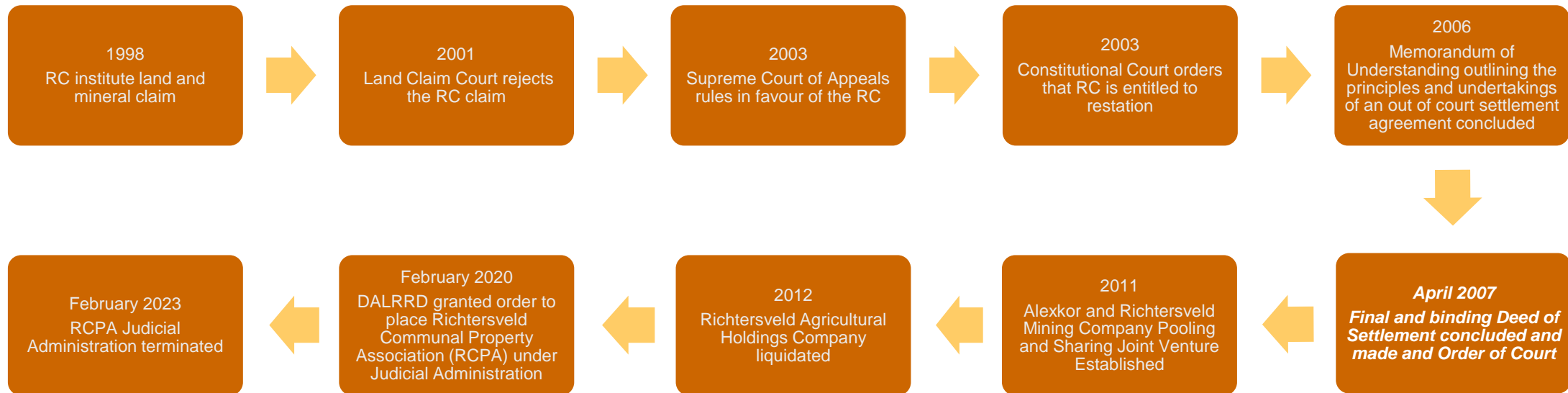
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# BACKGROUND (1/3)

1. In 2003 the Richtersveld Community (RC) won the right at the Constitutional Court to have land and mineral rights expropriated by the Apartheid government returned. The Government was ordered to compensate the community for loss of economic benefit and ordered to bear the cost of restoring the mined land to original condition.
2. In response to the court order, the community and Government negotiated a settlement, which was agreed in April 2007 named as Deed of Settlement (DOS) and Unanimous Resolution (UR)
3. The Government responsibilities were to be carried out through the Departments of Agriculture, Land Restitution and Rural Development (DALRRD), Public Enterprises (DPE), National Treasury (NT), the Northern Cape Provincial Government and the Richtersveld Local Municipality.



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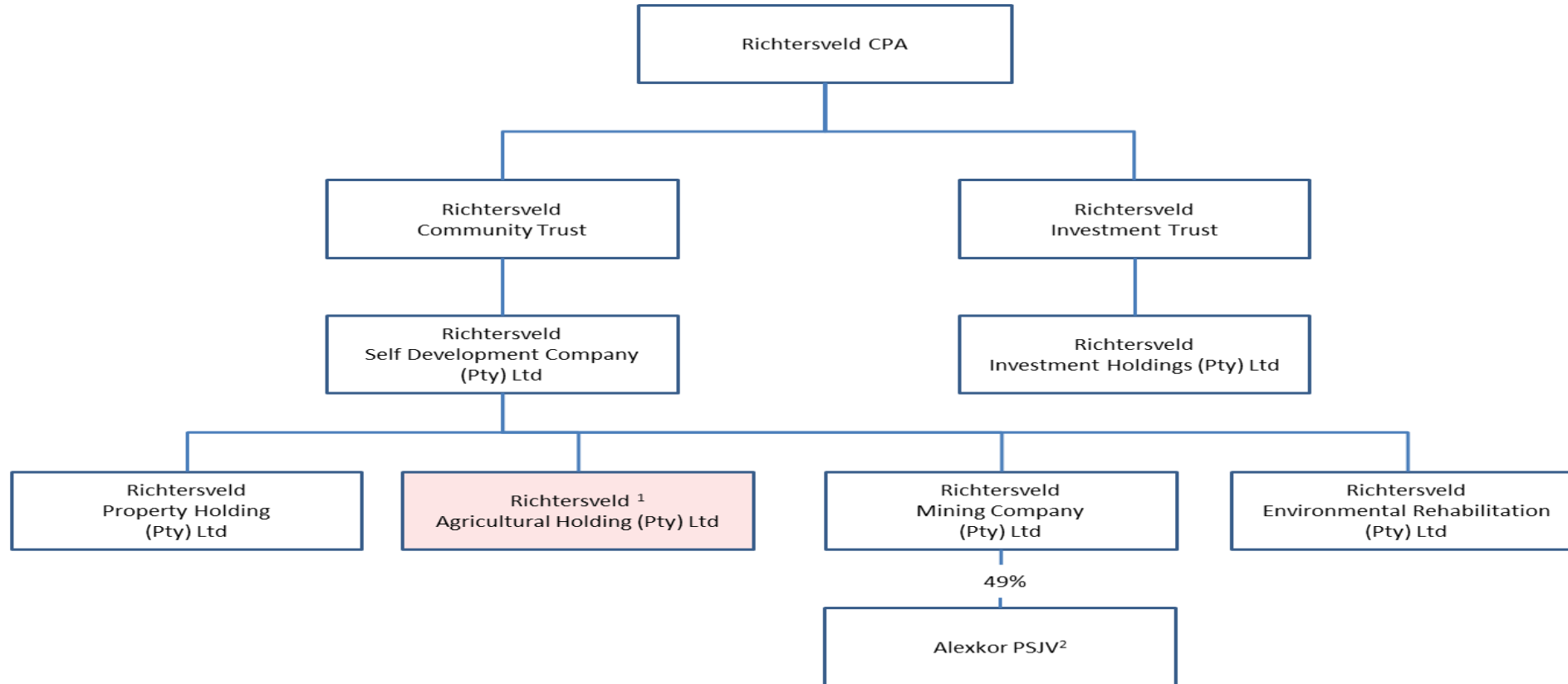
# BACKGROUND (2/3)

4. In summary the Government and the Richtersveld community agreed to the following ;
  - a. The transfer and restoration of portions of land by the State and Alexkor to the Richtersveld Community.
  - b. The transfer of Alexkor's land mining rights to the Richtersveld Mining Company (RMC) and the setting up of Alexkor RMC Pooling and Sharing Joint Venture (PSJV). The State, through Alexkor would capitalise the PSJV with R200 million in order to restore mining operations.
  - c. The transfer of Alexkor's mariculture and agricultural assets to the Richtersveld Agricultural Holding.
  - d. A sum of R190 million to be paid as reparation to the Richtersveld Investment Holding Company (RIHC) over three years.
  - e. R50 million development grant to be paid as a lump sum development grant to the RIHC for agriculture and mariculture.
  - f. R45 million to be paid to the Richtersveld Property Holding Company (RHPC) as compensation for Alexkor's occupation on transferred residential properties for ten years.
  - g. The establishment of a township at Alexander Bay including the upgrade of the municipal infrastructure to be handed over to the Richtersveld municipality; and
  - h. Environmental rehabilitation of historical mining areas.

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# BACKGROUND (3/3)

5. In order to protect the interests of the community, the DoS sought to create a very comprehensive structure of Trusts and Companies to house the interests of the Community. The DoS directed that at least 2 Trusts and eight (8) companies be established to manage and operate the various business dealings of the CPA
6. More than 50 (fifty) are required to oversee the interest of the community



<sup>1</sup> Liquidated

<sup>2</sup> Unincorporated

# PROVISIONS OF SETTLEMENT – STATUS UPDATE (1/2)

5. The responsibility of the DPE, as carried by Alexkor were to ensure the (1) transfer of land based mining rights and establishment of PSJV , (2) transfer of Alexkor’s mariculture and agricultural assets , (3) transfer and restoration of portions of land by the State and Alexkor to the Richtersveld Community, (6) transfer of residential properties and R45 million upfront payment for occupation of properties, (7) environmental rehabilitation and (8) establishment of township of Alexander bay,
6. Alexkor has fulfilled all of the obligations with the exception of (6) (7) and (8).



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# PROVISIONS OF SETTLEMENT – STATUS UPDATE (2/2)

Obligation	Assets	Responsibility	Status
1. Establishment of ten (10) community entities	-	DALRRD	● February 2020 RCPA placed under Administration. Administration order lifted in February 2023
2. Transfer and restoration of portions of land by the State and Alexkor to:		Alexkor DALRRD DPE NCPG	● 12 farms transferred
i. Richtersveld Property Holdings Company	<ul style="list-style-type: none"> <li>▪ 12 Farm portions</li> <li>▪ +500 residential properties</li> <li>▪ R45 million</li> </ul>		● Transfer of residential properties and payment of R45 million outstanding
ii. National, Provincial Governments	7 Farm Portions		● Transfer process commenced
3. The transfer of Alexkor's land mining rights Richtersveld Mining Company. Setting up of Alexkor RMC PSJV	R200 Million Recapitalisation loan	Alexkor DALRRD DPE	● PSJV established in April 2011 ● R200 million disbursed for establishment of PSJV
4. Establishment of a township at Alexander Bay including the to be handed over to the Richtersveld municipality	R100 million	Alexkor DALRRD DPE NCPG	● Township registered in November 2013
i. Upgrade of the municipal infrastructure			● Upgrades completed in 2014
ii. Handover of municipal service			● Services not yet handed over
5. Environmental Rehabilitation of old mine workings	R200 million	Alexkor	● Rehabilitation trust established. Work undergoing
6. Extraordinary Reparation Payment of R190 million to Richtersveld Investment Holding Company (RIHC)	R190 million	DALRRD NT	● Paid in 2007/8. Investment trust
7. Transfer of Alexkor's Farming and Mariculture Assets to Richtersveld Mining Company	Dairy farm, ostrich farm, fodder production, mariculture farm	Alexkor DALRRD	● Done. Agricultural Company liquidated in 2012
8. Payment of Lump Sum Development Grant of R50 million Richtersveld Investment Holding Company (RIHC)	R50 million	DALRRD	

# TRANSFER OF RESIDENTIAL PROPERTIES AND R45 MILLION PAYMENT

7. Due to the remoteness of the diamond operations, the settlement agreement directed that Alexkor would retain the use of the residential properties for a period of 10 years. To this effect, Alexkor would advance R45 million as upfront rental payment to the Property Holdings Company to secure the residency for their employees.
8. The transfer of properties and payment of the R45 million is delayed due to the Richtersveld Property Holdings Company established to oversee the property assets of the community being dormant; and the inability of the Richtersveld Communal Property Association (CPA) to hold prescribed annual meetings and elections of new directors to various structures including the Property Holdings Company.
9. Following unsuccessful attempts by government to restore governance at Richtersveld CPA. In February 2020, DALLRD was granted an order to place the Richtersveld CPA under judicial administration as per the provisions of the Communal Property Association Act 20 of 1996.
10. The administration order sought to amongst others restore corporate governance by holding overdue elections of new company directors ensuring that CPA is able to perform basic functions of holding and managing assets of the community. The elections were held during the course of 2022.
11. Subsequently, the administration order was terminated in February 2023. DALRRD is in the process of handing over the respective functions back to the CPA.
12. The process to transfer residential properties and the payment of R45 million to the Property Holding Company will resume. The R45 million is held by Alexkor in a trust account.

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# ALEXANDER BAY TOWNSHIP ESTABLISHMENT AND TRANSFER OF MUNICIPAL ASSET (1/3)

13. Clause 7 of the settlement agreement prescribed that the State, through Alexkor converts the Alexander Bay Village into a formal township of Alexander Bay. The responsibility of the township establishment was given to DPE which in turn entrusted the responsibility to Alexkor.
14. The Alexander Bay mining village consisted of two schools, two churches, a hospital, a police station and 499 residential dwellings. The mining compound was to be consolidated into a new cadastral unit on which a township of Alexander Bay is to be established and fall under the Richtersveld Municipality.
15. Certain properties within the established township were to be transferred to various entities including the CPA, provincial departments and municipality. The registration of the first property was effected on 22 November 2013 and the township of Alexander Bay was incorporated into the Richtersveld Municipality.
16. Furthermore, the establishment of the township necessitated that the municipal engineering services of the mining village be upgraded to municipal standards to allow the Richtersveld Local Municipality to take over the services and to fulfil all functions which local authority has to fulfil.
17. The engineering services to be upgraded included; the road network including tarring of roads, the electrical infrastructure including installation of prepaid meter system for the residential properties, the mechanical and electrical pumping installations and the wastewater treatment.
18. The upgrades of the township engineering infrastructure were completed in the 2014/15 financial year and over R130 Million has been spent on the infrastructure upgrades to date.

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# ALEXANDER BAY TOWNSHIP ESTABLISHMENT AND TRANSFER OF MUNICIPAL ASSET (2/3)

19. Although Alexkor fulfilled its obligation to upgrade the municipal infrastructure, the Richtersveld Local Municipality is yet to take over the responsibility of providing municipal services and managing municipal engineering infrastructure.
20. Due to the slow pace of township handover process, in 2016/17 the department initiated discussions with Northern Cape Provincial Government. The discussion led to an establishment of a intergovernmental committee to ensure smooth facilitation of the handover process. The team composed of representatives from Municipal Infrastructure Support Agency (MISA), Department of Cooperative Governance and Traditional Affairs (COGTA) and Department of Agriculture, Land Reform and Rural Development (DALRRD), Alexkor, Northern Cape Provincial, District and Local Municipality.
21. The Project Steering Committee is chaired and overseen by the Director General of the Northern Cape Province
22. In the main the Richtersveld concerns in taking over included amongst others;
  - Aged infrastructure
  - Poor road infrastructure condition
  - Non compliance of the electricity network to municipal standards
23. A memorandum of understanding and transitional plan outlining actions, roles and responsibility of respective parties were concluded to enable the established committee to monitor implementation of the handover of municipal infrastructure and services.

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# ALEXANDER BAY TOWNSHIP ESTABLISHMENT AND TRANSFER OF MUNICIPAL ASSET (3/3)

	Action	Progress
1	Land fill site licence and Agreement	Agreement between Alexkor and Municipality concluded
2	Rehabilitation Assessment of Landfill site	Municipality is in the process of appointing a service provider to assess the condition of landfill site
3	Asset Register made available to assist Municipality in unbundling of assets	Alexkor has provided the asset register. Other additional assets have been identified for Alexkor to include.
4	Monthly Cost for servicing the town	The monthly cost sheet has been submitted to the municipality . Alexkor to provide further information for clarity
5	Internal Road Network Due Diligence	Municipality conducted provisional assessment. The report is currently being reviewed by the municipality technical team
6	Application for Electricity Distribution to National Energy Regulator of South Africa (NERSA)	Municipality has applied to NERSA for Electricity distribution licence and is awaiting feedback.
7	Transfer of Alexander Bay water license	Name change from Alexkor to Richtersveld Municipality in progress Richtersveld Municipality applied for water use license and awaiting approval from Department of
8	Training of municipality staff	On going
9	Installation of water and electricity prepaid meters	Alexkor completed installation of electricity meters. Water meter installation in progress
10	Transfer of parks and cemetery	Municipality Environmental impact assessment to be concluded for the transfer of the cemetery.
11	Public Participation	Continuous engagement with relevant stakeholders on

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# CONCLUSION

24. Although not yet completely fulfilled, Government has made significant progress in executing the Richtersveld land and mineral settlement agreement obligation since its conclusion in 2007. Government has to date has expended over R1 Billion in executing the settlement agreement obligations.
25. New legislation and policies such as the Spatial Planning and Land Use Management Act of 2013, have been introduced since conclusion of the settlement. These developments have presented challenges in concluding the remaining obligations as some mandatory obligations were introduced and these were not anticipated at the time the settlement agreement was finalised . To a great extent these development have resulted in handover of municipal services and infrastructure, and properties to various institutions taking longer to conclude.
26. With the CPA being restored and regularised, Alexkor will resume the transfer of properties and financial compensation due to the Richtersveld Property Holdings Company.
27. The settlement agreement in itself is complex requiring the establishment of over eight companies and 50 directors to manage all the properties and financial assets of the community. The dynamics and complexity of the established entities has resulted in the dysfunction of the CPA and consequently delays in execution of the settlement obligations. In this regard, DALLRD is in the process of appointing a company to assist the Richtersveld community in reviewing the current structures with a view of simplifying the structure and establishing an effective governance structure.

# THANK YOU

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