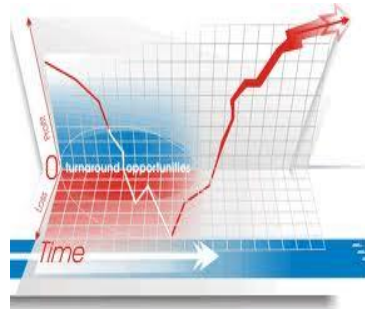




public works
& infrastructure

Department:
Public Works and Infrastructure
REPUBLIC OF SOUTH AFRICA



DEPARTMENT OF PUBLIC WORKS & INFRASTRUCTURE

&

KZN PROVINCIAL GOVERNMENT

Briefing to the Portfolio Committee

06 March 2024

Table of contents

1. BACKGROUND

2. COLLABORATIVE JOINT EFFORTS

3. ESTABLISHMENT OF JOINT TASK TEAM

3.1. FINDING OF THE TEAM

4. PROPOSED REMEDIAL ACTIONS BY TASK TEAM

5. PROGRESS REGARDING COMPLIANCE MATTERS

6. PROGRESS ON SITE PHASE 1

7. RECOMMENDATIONS

1. Background

- Following concerns over heightened criminal activity in the uMkhanyakude District Municipality in northern KZN, notably the illegal movement of persons between SA and Mozambique, the KZN Premier directed that a strategy be developed to improve the integrity of the border and a border line management committee was established.
- During 2017, former President JG Zuma visited the uMkhanyakude District Municipality in northern KZN on 2 occasions and directed that the relevant National and Provincial Departments and agencies undertake initiatives aimed at addressing the challenges in the area.
- KZN Transport engineers conducted high-level technical analysis of possible infrastructure interventions to limit crossings and a Border Integrity Improvement Plan was adopted that included reducing the ability of criminals to move stolen goods freely across border through trenches, railway sleepers and jersey barriers

1. Background cont..

- On 10 July 2018 KZN Department of Transport approached DPWI to request funding as border control and associated infrastructure is a national competence and not provincial function.
- KZN Department made available R50mil towards infrastructure to fortify the borderline with the understanding that DPWI will reimburse the funds.
- To this extent a MOU had to be entered into to give effect to the transaction.
- DWPI became signatory of the ***Implementation Protocol on Border Law Enforcement Between Relevant South African Organs of State Regarding The International Borderline With Mozambique***, with specific reference to the Province of KwaZulu-Natal was at the FOSAD meeting of 05 November 2018.
- DPWI concluded a pre-planning and design work for the entire border.
- Due to the extreme Urgency to deal with crime hot-spots on northern KZN / Mozambique border, the project was separated into Phase 1 (54km KZN Mozambique section) and remainder of Border as Phase 2 (balance of 540km of Border around ESwatini)

1. Background cont...

- With regards to the work done by KZN Department (25kms), the DPWI identified and confirmed funding on 20 December 2019 subject to:
 - the conclusion of the MOU and
 - a comprehensive project report by KZN Department to be assessed by the DPWI Construction Project Management branch to validate the work done.
- The DPWI and KZN Department has undertaken to prioritise the finalisation of the MOU to enable the transaction.

2 Collaborative Joint Efforts

- ❖ Following the visit by the Portfolio Committee, DPWI and KZN Provincial Government established a task team to deal with challenges of phase 1 Jersey Barrier project implemented by KZN DoT
- ❖ The then Accounting Officer of DPWI and the Province agreed to establish a joint multi-disciplinary team, comprising of officials from National DPWI, Durban Regional Office, Office of the Premier and KZN Department of Transport
- ❖ The mandate of the task team among others was to develop the MOA between DPWI and the KZN Provincial Government so that all challenges namely, EIA compliance, roles and responsibilities of both parties including the payment for the phase 1 following all due diligence

3 Establishment of the Multi-disciplinary Task Team

- The Multi-disciplinary Task Team (MdTT) was originally appointed on 30 October 2020 by the former Acting Director General and on 19 November 2020, the team, after reflecting on the difficulty of regularisation of a process which was done outside of the Department, finalized the Draft MoA which provided conditions for the transfer of the R50 million allocation as previously promised by the then Accounting Officer. On 24 November 2020, the MdTT successfully concluded its task, submitting both a memorandum and the Draft MoA for the Acting DG's consideration, signature, and subsequent transmission to the KZN DoT and Office of the Premier. The Acting DG favourably reviewed and endorsed the Draft MoA, sending it on 05 January 2021 to the DG KZN Provincial Government along with a letter of accompaniment.
- Since the submission of the Draft MoA in November 2020, the MdTT regrettably did not receive any feedback from either the former Acting DG or the KZN Department of Transport until the commencement of 2023, which coincided with the assignment of the new Minister to the Public Works and Infrastructure portfolio. It seems that this issue remained inactive since 2021 but was brought back to the forefront during a meeting between the Minister and the MEC for Roads and Transport on 09 May 2023, subsequently followed by another meeting involving the then Acting DG and the KZN DoT HoD on 12 May 2023.
- In light of the ongoing risks, the discussions between the political principals and Accounting Officers of the DPWI and DoT were aimed to guide the technical officials in crafting a revised MoA that effectively manages the regularisation of the Phase 1 construction project. The MdTT was reconstituted to address among others, key challenges including potential penalties for biodiversity interference during Phase 1 construction, projected cost escalations thus potentially increasing the initial budget from R50 million to a sum yet to be determined, contract contingencies, irregularities of the Phase 1 contract and the appointment of a replacement contractor for project completion.
- The primary objective of the MoA is to establish a protocol governing the collaborative efforts between the DPWI and KZN DoT for the Phase 1 construction of modified jersey barriers at the KZN Kosi Bay Border which demarcates the territories of South Africa and Mozambique.

3.1. Findings of the team

- The MdTT has industriously reviewed pertinent documentation availed to it and subsequently drafted the MoA attached here as **Annexure A**. This instrument is designed to safeguard compliance with relevant legislative and legal requirements, ensuring that the Department's efforts to regularize the KZN DoT's work remain legally sound before any payments can be remitted..

The MdTT noted the following, among other issues of concern:

- The DPWI had initiated a feasibility study for a 520km border wall from Kosi Bay up to the Botswana border prior to the former President's directive to the relevant government departments in 2017. Subsequent steps included the appointment of a town planner to do the environmental impact assessment (EIA), the registration, in January 2018, of another project to prioritise the implementation of the 'Procurement of Land, planning, design and re-construction of 54 km between RSA and Mozambique borderline fences and patrol roads: WCS 055105', and the appointment of consultants to engage the Department of Environmental Affairs (now Department of Forestry, Fisheries and the Environment (DFFE)) to discuss the requirements of the environmental impact assessment.
- On the other hand, the KZN DoT's engineers undertook a high-level technical analysis of possible infrastructure interventions to limit crossings and this culminated in a Border Integrity Improvement Plan which outlined the need for a modified barrier wall spanning 25km to reduce the ability of criminals to move stolen goods freely across the border through trenches, railway sleepers, and jersey barriers. Phase one, an 8km stretch from Gate 6 westward, was proposed.

4. Proposed Remedial actions by the MdTT

- It appears that while the DPWI (which possesses a legislative mandate for border infrastructure construction in terms of the Constitution of the Republic of South Africa (Act 108 of 1996), the Government Immovable Management Act (GIAMA, Act 19 of 2007) and the Infrastructure Development Act of 2014), the KZN DoT did not obtain requisite approvals of the DPWI and DFFE when they embarked on Phase 1 construction to do work related to the construction of border infrastructure, resulting in biodiversity damage.
- While the Department had initially committed to reimburse the KZN DoT R50 million subject to certain conditions being met in terms of the initial draft MoA, the cost has now escalated to include the actual amount after tender and the contract variations. Added to this are financial penalties imposed by the DFFE for EIA non-compliance.
- The focus of the MdTT was primarily on coordinating the Phase 1 regularization and reimbursement subject to conditions, thus, the KZN DoT's expectation to proceed with subsequent phases was not entertained.
- In light of these concerns, the MdTT has incorporated specific clauses in the MoA regarding compliance requirements, departmental obligations, conditions for the R92 747 424.32 or an amount to be determined, and the EIA penalty of R12.5 million payable directly to the DFFE.
- The parties have since concluded the MOA processes to verify work done by the province in progress in order to process payments for phase 1
- The province has resuscitated the project and is in course to conclude phase 1

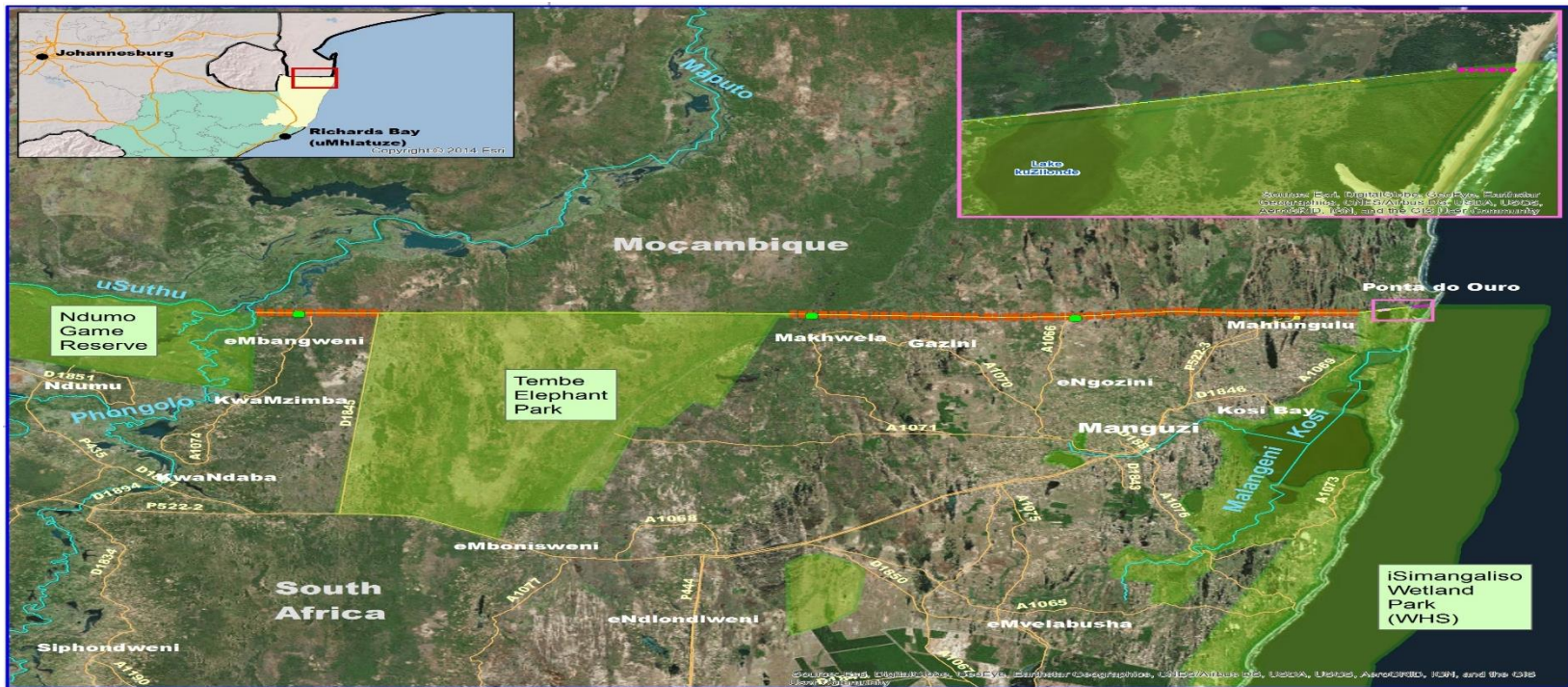
5. Progress regarding compliance matters

- The Department applied for and received the Environmental Authorization (EA) in terms of the National Environmental Management Act, Act no.107 of 1998. The EA was granted on the 10th of April 2019 and the holder of the authorization is the National Department of Public Works.
- The outstanding Environmental Management Programme (EMPr) was submitted on the 20th of September 2021 . The submission fulfilled the requirements of the Conditions 13, 29, 30 and 31 of the abovementioned EA. This submission included the Freshwater (Wetland) rehabilitation Plan and the Biodiversity Offset Plan. This amended EMPr along with the reports was approved by the Department of Forestry, Fisheries and the Environment on the 21st of October 2021.
- After massive social pressure which was ignited by the killing of prominent community leaders who stood against the crime syndicates stealing vehicles and crossing them over to Mozambique border, KZN Department of Transport has resuscitated the border and appointed a contractor to complete the outstanding works for phase 1. The project commenced on the 17th of November 2023 and has a duration of 12 months.
- An Environmental Assessment Practitioner who conducts monthly reports as stipulated in the conditions of the approved EMPr has also been appointed to ensure compliance with the EA.

5. MAP SLIDES SHOWING PHASES

The project was separated into 3 phases for ease of construction and budgetary constraints:

- Phase 1 – 8km long, starting from Gate 6 and moving in the western direction towards Tembe Elephant Park.
- Phase 2 – 8km long from the boundary of iSimangaliso Wetland Park, moving in the western direction towards gate 6.
- Phase 3 – 9km from the western boundary of Tembe Elephant Park towards Pongolo River.



6. Progress on site

- The Works on the construction site are currently underway. The impact of the project has been received positively by the community and the SANDF. The following are photos on the impact of the reinforced concrete barrier which is under construction:



6. Progress on site

- The following is a photo of a double cab vehicle which was stuck during construction on the first contract while Layerworks were being built up. This indicates the impact of the project even during construction.



6. Progress on site

- The following is a photo of an SUV which burnt after the criminals attempted to cross the barrier using an iron ladder.



6. Progress on site and plans for phase 2

Description	Timeline	Progress to date
1. KZN Provincial Executive Council resolved to resume border project with immediate effect to combat crime	15 March 2023	For urgent noting
2. Submission to HOD for emergency procurement	21 April 2023	HOD approved submission.
3. Phase 1 Completion – Procurement of Contractor	22 June 2023	The contractor, Kamawewe Development Consultants (Pty) Ltd was appointed with a contract value of R62 288 559.00.
4. Construction Works Permit	31 August 2023	Works Permit has been received from DoL
5. Finalisation of MOA between all stakeholders	October 2023	MOA signed by KZN DOT, NDPWI and KZN OTP.
6. Phase 1 Site Establishment date	17 November 2023	Works have commenced on site. Project duration is 12 months
7. Phases 2 and 3 Anticipated Construction Start date with estimated cost of R270,940,352 (Parties still need to finalise discussions)	30 September 2024	Project Duration is 24 Months.

7. RECOMMENDATIONS

- It is recommended that the Portfolio Committee note the report on Kosi Bay Projects implemented by both DPWI and KZN Department of Transport



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Thank You