

Breaking New Ground In Housing Delivery



## human settlements

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA

# Progress Report on the Implementation of the Judgment of the Constitutional Court Case

04 November 2009

**VISION: A NATION HOUSED IN SUSTAINABLE HUMAN SETTLEMENTS  
WITH ACCESS TO SOCIO-ECONOMIC INFRASTRUCTURE**

**MISSION: TO ESTABLISH & FACILITATE A SUSTAINABLE PROCESS  
THAT PROVIDES EQUITABLE ACCESS TO ADEQUATE HOUSING FOR ALL  
WITHIN THE CONTEXT OF AFFORDABILITY OF HOUSING & SERVICES  
& ACCESS TO SOCIAL AMENITIES & ECONOMIC OPPORTUNITIES**

houses, security and comfort

# Purpose

The purpose of this presentation is to provide this Committee with a report on the status of the implementation of the Constitutional Court's decision with respect to the Joe Slovo 3 Court Case

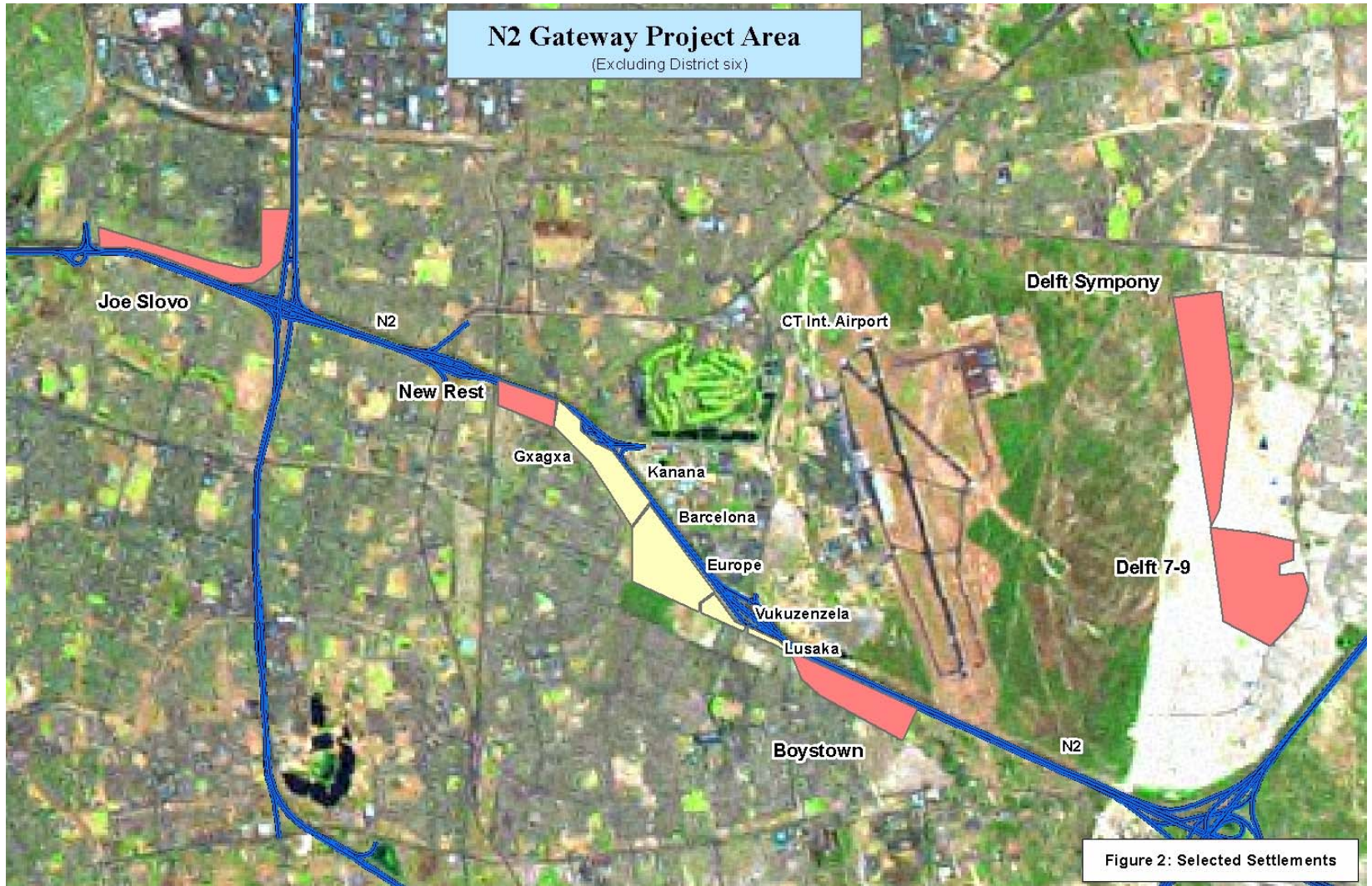
# Joe Slovo settlement consists of.....

The following 5 precincts, but the Constitutional Court ruling affects only Phases 3 and 4:

- Joe Slovo Phase 1 (705 rental units)
- Joe Slovo Phase 2 (FNB 43 bonded units)
- Joe Slovo Phase 3A (466 BNG units) + 3B
- Joe Slovo Phase 4 (950 BNG units)
- Joe Slovo Show village (38 BNG units)



# N2 GATEWAY LOCALITY PLAN







**PHASE 3A**  
8.46ha  
55du/ha  
462units

**LANGA**

**JOE SLOVO**  
PHASES 3A, 3B & 3C



**ESTIMATED TOTAL - 1437 UNITS**  
**DRAFT SITE DEVELOPMENT PLAN**



31/01/08 REV:02 NEW FNB CADASTRAL BOUNDARY SHOWN			
dwg no.	0506JS - 01 - 1005	REV	02
date	12/12/07	drawn	TU
		design	JPS
		scale	1:1000

# Application to Western Cape High Court.....

- 10 March 2008 :
- Application made to WCHC, *inter alia*, to evict occupiers of the Joe Slovo settlement by one legal team, on behalf of all respondents, ie.
  - the last Minister of Housing
  - Provincial Minister of Local Government and Housing; and
  - Thubelisha Homes



# The papers detailed ....

- The historical, demographic and current living conditions of the settlement
- The constitutional obligation to provide the right of access to adequate housing to the residents as set out in the *Comprehensive Plan for the development of sustainable human settlements.*
- N2 was chosen as a pilot because of its huge backlogs, high rates of urbanisation and rapidly expanding economy;
- The Project :
  - contemplated the upgrading of all informal settlements along the N2, with Joe Slovo as the starting point;
  - is a joint initiative of all three spheres of government

# The papers detailed ....

- The Joe Slovo area is densely inhabited, therefore :
  - It was not possible to re-house all current households of Joe Slovo therein
  - the strategy was 2 fold :
    - to move certain occupants to houses in Delft, via temporary housing units; and
    - others back to Joe Slovo once the area was rehabilitated, upgraded and houses constructed



# The papers detailed ....

- Extensive efforts were made
  - over a protracted period of time
  - to persuade the occupants to co-operate with an orderly move to housing that was provided,
  - but these efforts were unsuccessful and an urgent request for eviction was the only option.
- No person would be left homeless on account of these proceedings
  - as suitable alternative accommodation would be provided to the occupants, upon their moving out of Joe Slovo;
- Persons currently in TRA's at Delft :
  - would be moved to houses as and when houses become available
  - in accordance with their position on the waiting list and housing subsidy approvals;

# The papers detailed ....

- Residents of the settlement will be taken to the TRAs temporarily and then
  - Some will be moved to their own houses according to their places on the housing waiting lists and housing subsidy approvals
  - Others will be relocated to housing on the Joe Slovo site once houses here were completed.
- The challenge to the State was :
  - to take measures to progressively realise access to adequate housing rights for the country's poorest and most vulnerable while simultaneously respecting existing housing rights, by not embarking on or facilitating arbitrary evictions.
- Hence, the removal of the occupiers was sought in accordance with the State's endeavour :
  - to realise the residents' rights of access to adequate housing in line with its constitutional imperative to do so; and
  - To respect the rights of other people

# Application to the WCHC...

- After papers were filed in the WCHC by all the parties, but before the hearing of the application, the National Minister obtained separate legal representation.
- WCHC granted an Order for the eviction of the occupiers.
- The occupants then appealed to the Constitutional Court.



# Ruling of the Constitutional Court ..

10 June 2009, :

The Constitutional Court confirmed the Order for eviction, but government was to:

1. ensure that 70% of the homes to be built at Joe Slovo were allocated to current residents, or those who moved away after the Project commenced;
2. meet the Court-specified quality of housing necessary for the TRAs;
- 3 maintain an ongoing process of engagement between the residents and the respondents.

# Ruling of the Constitutional Court ..

4. The judgment maintained, *inter alia*:
  - i. The respondents, particularly the National Minister and the Provincial Minister, acted reasonably in applying to court for the eviction of the occupiers of Joe Slovo;
  - ii. The relocation order was sought and granted in order to facilitate the development of better quality housing;
  - iii. The N2 Gateway Project is aimed at the provision of “decent, reasonable housing for those living in informal settlements”;
  - iv. The process of the development was carefully defined at national level;
  - v. The process ends with the development of housing in response to community demand;

# Ruling of the Constitutional Court ..

- 5 As the state owns the land and pays for the construction of housing, it must be afforded some leeway in the design and structure of housing, provided it acts reasonably ;
- 6 In all the circumstances, the State has acted reasonably in compliance with its housing obligations, and there had been reasonable engagement almost all the way.