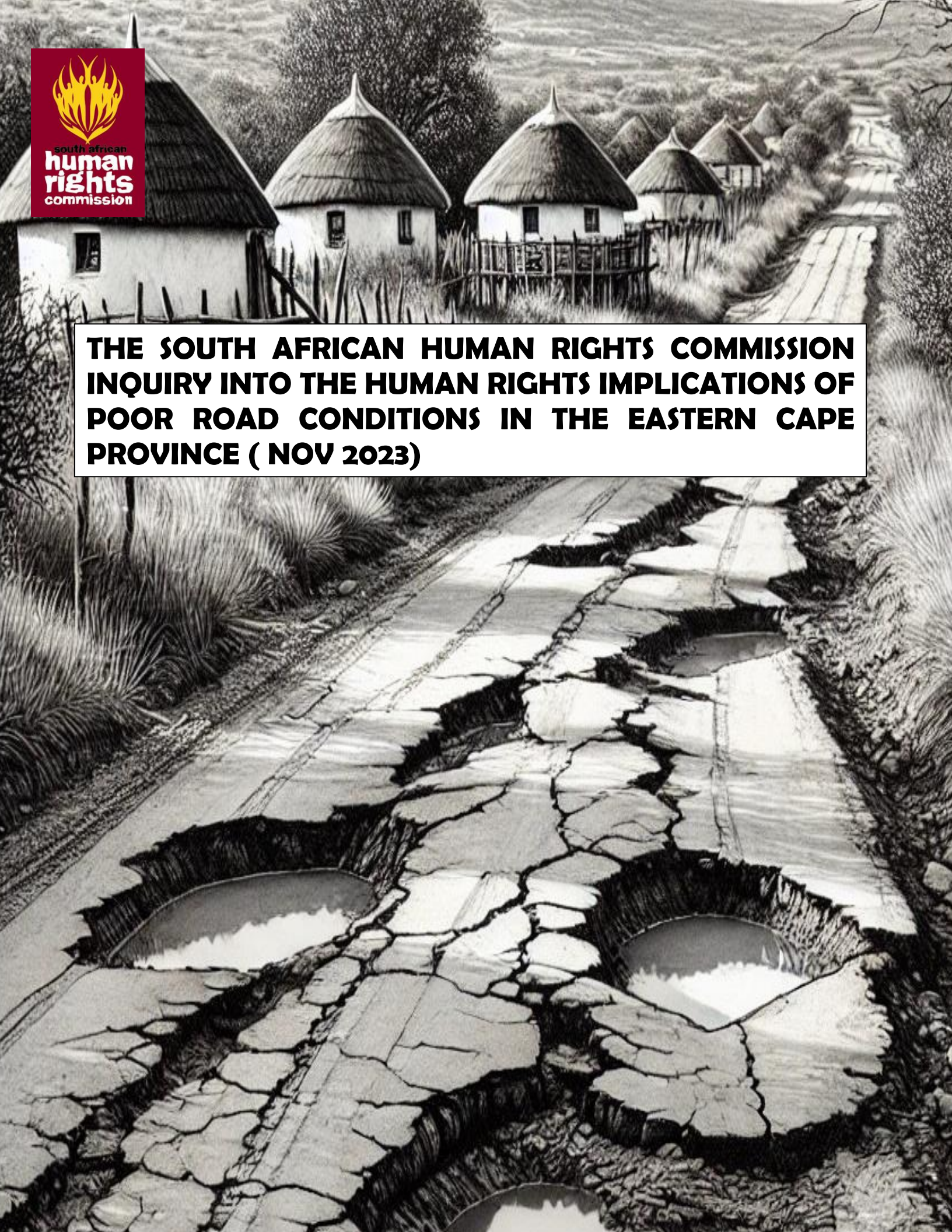




**THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION  
INQUIRY INTO THE HUMAN RIGHTS IMPLICATIONS OF  
POOR ROAD CONDITIONS IN THE EASTERN CAPE  
PROVINCE ( NOV 2023)**



## **Executive Summary**

The South African Human Rights Commission conducted an inquiry into the impact of poor road conditions on the realisation of human rights in the Eastern Cape Province in November 2023. The inquiry revealed that inadequate road infrastructure continues to severely hamper access to essential services, particularly in rural communities, where the lack of connectivity directly affects access to healthcare, education, economic opportunities and other opportunities needed. These road conditions have perpetuated historical inequalities and have resulted in ongoing human rights violations.

A key finding of the inquiry is that the persistent lack of road maintenance and development contributes to widespread violations of fundamental rights, including access to education as guaranteed by Section 29 of the Constitution, the right to healthcare under Section 27, and the right to safety and security under Section 12. These rights are significantly compromised, particularly in rural areas where road infrastructure remains grossly inadequate.

The poor state of roads has a devastating impact on critical sectors, especially agriculture, tourism, and emergency medical services (EMS). Farming communities are struggling to transport goods due to inaccessible and dilapidated roads, limiting their ability to access markets and resulting in severe financial losses. The tourism sector, which is vital for the province's economy, particularly in scenic areas like Hogsback, faces significant challenges due to poor road conditions, leading to a decline in tourists and economic stagnation in the region. Moreover, the inquiry highlighted that emergency medical services are severely hampered by road inaccessibility, with delays in reaching patients often resulting in avoidable deaths. In some instances, the Department of Health has encountered legal action due to delayed EMS responses, adding further pressure on already strained healthcare resources.

One of the most pressing issues identified is the substantial backlog in road infrastructure development in the Eastern Cape, with only 9% of roads being paved, compared to the national average of 25%. This backlog, a legacy of historical neglect, is exacerbated by the lack of sufficient funding and poor infrastructure planning. The province remains trapped in a cycle where insufficient road development leads to diminished economic opportunities, further entrenching poverty and inequality.

The Commission has made several recommendations to address these issues, starting with the National Treasury, which must urgently address the province's infrastructure backlog by increasing funding allocations. Exploring alternative funding mechanisms, such as a once-off fuel levy, could be an effective strategy to bring the province's road infrastructure up to par with the national standard, while also stimulating economic development. The Department of Transport, both at national and provincial levels, must

prioritise the upgrade and maintenance of critical routes that serve key facilities such as hospitals, schools, and police stations. In particular, the road networks that serve the agricultural and tourism sectors must be given special attention to ensure that these vital industries can operate effectively and contribute to the provincial economy.

District municipalities must also play a critical role in ensuring that road maintenance grants, such as the Provincial Roads Maintenance Grant (PRMG), are fully utilised. The adoption of systems like the Road Asset Management System (RAMS) will enhance planning and resource allocation. Additionally, it is recommended that district municipalities ensure each local municipality has a fully operational yellow fleet to carry out routine and emergency road maintenance, thus reducing dependency on provincial intervention.

SANRAL, as a key player in national road management, must engage more frequently with the Office of the Premier to take over the management of provincial roads. This would enable the prioritisation of road maintenance and improvements across the Eastern Cape, with a clear focus on addressing the backlog and ensuring that the province reaches parity with other provinces in terms of road infrastructure within a targeted timeframe.

It is therefore against the above that the Commission finds that the current state of road infrastructure in the Eastern Cape continues to violate human rights, and without significant intervention, these violations will persist, worsening the province's economic and social challenges. The Commission is convinced that through the adoption and implementation of the recommendations in this report, human rights violations caused by inadequate road infrastructure can be mitigated, allowing future generations to experience improved access to services, opportunities, and livelihoods in the Eastern Cape. Immediate and bold action is required to address these issues and ensure that the people of the Eastern Cape are afforded the dignity and opportunities guaranteed by the Constitution.



## ACKNOWLEDGEMENTS

The South African Human Rights Commission extends its deepest gratitude to all the communities across the Eastern Cape who participated in this inquiry, sharing their experiences and challenges regarding the impact of poor road conditions. Your voices were critical in shaping the findings of this report. We also acknowledge the contributions of stakeholders from both the private and public sectors, including government departments, agricultural cooperatives, and the tourism industry, whose insights provided a comprehensive understanding of the issues at hand.

A special thanks is owed to Commissioner Philile Ntuli, Dr Siyabulela Fobosi as well as Dr Eileen Carter who constituted the panel of this inquiry. Further, acknowledging the Eastern Cape Provincial Office of the SAHRC led by Dr Eileen Carter, whose tireless efforts made this inquiry possible. In particular, we recognize Ms. Sikhosonke Mayekiso, whose dedication was instrumental in driving the success of this inquiry. The commitment, hard work, and collaboration of the entire team played a vital role in ensuring that this report accurately reflects the realities faced by the people of the Eastern Cape and provides actionable recommendations to address these challenges.

## **ACRONYMS AND ABBREVIATIONS**

AGSA	Auditor General
DORA	Division of Revenue Act
COGTA	Department of Cooperative Governance and Traditional Affairs
MRMG	Municipal Road Maintenance Grant
MSA	Municipal Structures Act
NRMP	National Roads Master Plan
PLTF	Provincial Land Transport Framework
PMS	Pavement Management System
PPP	Public Private Partnership
PRMG	Provincial Road Maintenance Grant
RAMS	Road Asset Management System
RRAMS	Rural Road Asset Management Systems
SAHRC	South African Human Rights Commission
SANRAL	South African National Roads Agency
SAPS	South African Police Services
SARF	South African Road Federation
SIP	Strategic Infrastructure Project

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## ***Paving the Way: Confronting the Legacy of Neglect in Eastern Cape's Roads***

### **1. INTRODUCTION**

The South African Human Rights Commission (Commission), Eastern Cape Provincial Office, conducted an inquiry into the impact of inadequate road infrastructure on the realization of human rights in the Eastern Cape province. This inquiry was carried out in accordance with the Commission's mandate, as outlined in Section 184(2) of the Constitution, which authorizes the Commission to investigate and report on human rights violations and take necessary steps to address any infringements. This endeavor aligns with the Commission's overarching goal of promoting respect for human rights, fostering a culture of human rights, and monitoring their observance across the Republic, as stipulated in Section 184(1) of the Constitution.

### **2. BACKGROUND**

- 2.1. The Eastern Cape province (EC) is characterised by a vast rural landscape with communities spread across diverse terrains. Unfortunately, many of these areas suffer from inadequate road infrastructure, resulting in limited accessibility for residents, stakeholders, businesses and service providers. The non-accessibility of roads in rural Eastern Cape poses significant challenges to accessing socio-economic rights such as education and health care.
- 2.2. The Eastern Cape Provincial Office (ECPO) has over the years received complaints relating to the inaccessibility of roads in the province.<sup>1</sup> These complaints were identified as potential systemic violations of human rights, leading to the commencement of the inquiry. Below includes the complaints received:
  - 2.2.1. EC/1920/0331 – A complaint was lodged in November 2019 on behalf of the Mantlaneni Community, in Lusikisiki regarding the inaccessibility of the access road leading to Mantlaneni. The access road is severely dilapidated, significantly impacting the transportation of scholars in the area as well as access to the Hlababomvu Police Station and Mantlaneni Clinic. The Mantlaneni Clinic serves as the primary health care facility to various surrounding villages. The SAHRC forwarded various communication to the DOT with no response.
  - 2.2.2. EC/2122/0372 - The complaint was received in March 2022. The complaint in question relates to the condition of the access road leading to Zigudu community, in Cofimvaba. The road is reportedly dilapidated rendering it completely

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<sup>1</sup> The complaints represent a subset of complaints received in recent years; it is worth noting that the ECPO has continued to receive similar complaints after the conclusion of this inquiry. While some complaints have been brought to the attention of the ECPO through published articles of media interviews, others were provided by affected individuals or communities.

impassable for motor vehicles and this poses challenges for emergency services, such as ambulances and the police, as they are unable to reach the area due to the road conditions. Scholar transportation is also affected, as the road becomes impassable during wet weather, resulting in learners being unable to attend school. Moreover, the inaccessibility of the road hinders public transportation options for villagers during rainy weather. The community has engaged the Department of Transport (DOT); however, no assistance has been provided. Despite acknowledging the road's dilapidation, the DOT cited budgetary constraints as the reason for not repairing.

- 2.2.3. EC/2021/0216 – This matter relates to a complaint that was lodged against the Mnquma Local Municipality, in January 2020, regarding the deplorable state of the road leading to Thafalofefe Hospital from Butterworth. The Thafalofefe Hospital is the only healthcare facility in the Centane region. The condition of the road renders the hospital inaccessible during inclement weather. The Commission addressed correspondence to the Municipality with oversight; however, no response has been received to date.
- 2.2.4. EC/2122/0042 - The complaint was lodged in May 2021 on behalf of the Gwatyu Farms Community, in Queenstown. The complaint relates to the R351 access road in Gwatyu and other roads in the community, which are reportedly dilapidated, rendering them inaccessible, particularly during adverse weather conditions. The poor road conditions prevent emergency services, such as the police and ambulances from accessing the area. Scholar transportation is also affected as the road becomes impassable in wet weather. Despite lodging numerous complaints with the Chris Hani District Municipality, the community has not seen any improvements.
- 2.2.5. EC/2122/0241 - This complaint was lodged with the Commission, in December 2021, on behalf of the Gcibhala Village, situated in Tsomo, under Intsika Yethu Municipality. The complaint highlights the lack of proper road infrastructure, rendering most of the sub-villages in Gcibhala inaccessible. The community resorted to constructing their own roads without proper equipment. The road leading to Gcibhala is dilapidated and impassable for motor vehicles. Emergency services, including ambulances and the police are unable to access the area. Scholar transportation is implicated to the road's impassability. Villagers are forced to physically carry the sick and deceased to the nearest Mandlovini Village in order to access ambulances. The community's attempts to engage with the Municipality have been unfruitful. The Commission addressed correspondence to the Municipality with oversight, however, no response has been received to date.
- 2.2.6. The above complaints illustrate the crucial role that road infrastructure plays in ensuring the enjoyment of basic human rights and facilitating access to socio



economic rights, especially in rural communities. Poor road infrastructure can (and in the identified communities may have proven to) impede access to healthcare facilities, emergency medical services, timely medical treatment and police services.

### 3. PRE-INQUIRY INSPECTION IN LOCO



3.1. The ECPO further conducted road inspections encompassing thorough assessments of the road infrastructure in the Cwebeni, Xorha, and Centane regions. The observed conditions across these regions consistently reflected a state of dilapidation and disrepair, revealing various indicators of inadequate maintenance, erosion, dust accumulation, and rough surfaces.

#### 3.2. *Centane Region*

In the Centane region, a significant portion of the roads, characterised by single-lane structures, exhibited signs of slow dilapidation. The route towards Thafalofefe Hospital presented a progressively deteriorating condition, marked by evident road erosion, rough surfaces, potholes, and dust accumulation. These factors collectively contribute to the challenging environment for vehicular movement, particularly impacting access to crucial health care services. Noteworthy is the

presence of narrow passages requiring vehicles to take turns, amplifying the complexities of transportation in the area.

### 3.3. *Cwebeni Region*

Cwebeni, a community continuously affected by floods, represented substantial road erosion, indicative of an absence of effective flood or water drainage systems. The general state of the roads throughout the inspected areas consistently lacked surfacing, displaying visible signs of weathering, lateral splitting, and presenting dangerously narrow thoroughfares. Specific instances necessitated drivers to navigate perilously close to the road's edge, rendering them impassable during adverse weather conditions.

### 3.4. *Xorha Region*

Similar adversities were noted in Xorha, where roads displayed characteristics of erosion, dustiness, and rough surfaces, coupled with a notable scarcity of public transportation. The consequential impact on community members is evident, as they confront formidable challenges in accessing fundamental services, with students enduring extensive walks to reach educational institutions. The prevalence of potholes further compounds these challenges, posing risks to both pedestrians and drivers.



3.4.1. From the complaints received, the Commission’s own monitoring activities as well as its inspections, the Commission assessed that the challenges perceived have far reaching consequences for marginalised communities. It goes beyond infringing on the right to, for example, adequate healthcare and encompasses various other concerns, as also highlighted in the Commission’s hearing report, titled “Access to Emergency Medical Services in the Eastern Cape”. This report sheds light on numerous factors hindering access to emergency medical services in the rural EC. One significant factor cited in the report is the state of disrepair of the roads with the EC reportedly “having the worst gravel road network in the country”, primarily due to funding constraints leading to inadequate road maintenance.



3.4.2. The inaccessibility of roads in EC, as pointed out above therefore presents a host of other notable challenges. These include but are not limited to:

3.4.2.1. Right to education: as many learners in the respective communities’ face difficulties in attending school regularly, resulting in interruptions to their education. In some instances, learners’ resort to utilising unsafe alternative modes of transportation pursuant to accessing their right to education.

- 3.4.2.2. Right to Freedom of Movement: poor road infrastructure, especially in some of the above noted communities, has been alleged to limit freedom of movement and their inability to participate in social and economic spaces.
- 3.4.2.3. Access to employment and economic opportunities: the lack of infrastructure in the identified communities has hindered socio-economic development as the lack of proper roads can isolate communities and impede access to employment opportunities further relegating these communities to the fringes.
- 3.4.2.4. Additionally, the inaccessibility of these communities due to poor road infrastructure, delays and/or hinders access to basic services. Such as the maintenance and improvement of the housing conditions, delivery of clean water and sanitation services, impact their right to food and access to essential services.
- 3.4.2.5. As such, this issue prompted the Commission to initiate an inquiry to address the identified systemic challenges and their wide-ranging consequences for marginalised communities and the tourism sector.

#### **4. OBJECTIVES OF THE INQUIRY**

- 4.1. The objective of the inquiry was to assess the effectiveness of measures implemented by key stakeholders such the Department of Transport and relevant municipalities in addressing the issue of deteriorating road infrastructure in identified communities. This involved a thorough evaluation of plans or strategies devised by the stakeholders to tackle the problem at hand.
- 4.2. Additionally, the inquiry aimed to uncover the factors contributing to the degradation of roads in these communities. It sought to investigate potential mismanagement practices or inefficiencies in the maintenance processes of road infrastructure. By examining the efficacy of existing monitoring mechanisms, if any, the inquiry aimed to identify gaps or deficiencies and pinpoint areas for improvement to facilitate appropriate action.



## 5. SUBMISSIONS

5.1. The Commission invited several key stakeholders to the inquiry. The participants were identified in respect of their knowledge, involvement as well as level of responsibility towards the concerns raised by the Commission. Although mainly based within the Eastern Cape, the participants shared information and concerns which may be superimposed on a national level. The Commission received submissions from the various participants and key stakeholders:

### 5.1.1. COMPLAINANTS

#### 5.1.1.1. Mr Simthembile Myekwa

Mr. Simthembile Myekwa (hereinafter “the Complainant”), a resident of Mantlalani in Lusikisiki, brought attention to a range of challenges encountered by his community in his submission. The Complainant noted that a considerable portion of eMantlalani's population grapples with unemployment and suffers from impoverished living conditions, prompting many to seek better opportunities in urban areas. Access to essential services, such as running water, is severely limited, compelling residents to resort to collecting

water from contaminated rivers. Additionally, he further highlighted the irregular maintenance of the gravel roads, specifically mentioning the road from R61 to T-153 and T-155, and identified numerous potholes that present significant obstacles for commuters. To illustrate the extent of the road conditions within his community, the Complainant provided the image below, serving as a visual representation of the deteriorating road conditions in Mantlaneni, highlighting the risks posed by unpaved and poorly maintained roads, particularly during adverse weather conditions.

**Image 1:**



Source: Mr Simthembile Myekwa (“Complainant”)

He further averred that, due to the deplorable road conditions, access to healthcare is severely compromised in the area. The local clinic lacks an ambulance, leaving patients with no choice but to rely on slow private transport, which exacerbates the situation. Pregnant women, in particular, are at risk of giving birth enroute to distant hospitals due to the unavailability of timely medical assistance.

Additionally, essential services such as Home Affairs and the Post Office are challenging to access, especially for those dependent on government grants, as transportation costs strain their already limited budgets.

Despite the presence of a police station offering some level of security, response times are significantly hindered by the poor road conditions. Moreover, professionals residing in town, including teachers, police officers, and nurses, encounter difficulties commuting during heavy rainfall, fearing accidents and punctures on the road. The T-153 Road serves as a crucial artery, connecting over 10 locations and highlighting its indispensable role in enhancing community mobility and accessibility.

#### **5.1.1.2. Amathole Tourism Association**

AMETA, a nonprofit organisation dedicated to advancing rural tourism in the expansive Amatola region, highlighted numerous challenges it encounters in fulfilling its mission. AMETA submitted that many roads in Hogsback play a pivotal role in facilitating tourism activities within the area. The organisation's sphere of operation extends well beyond Hogsback, encompassing areas stretching from Fort Beaufort in the west to Stutterheim

in the east, and from Gonubie in the south to Cathcart in the north, intersected by the crucial R345 route. This route serves as a vital artery for tourism, timber extraction, and agriculture, facilitating the transportation of livestock, milk, and other agricultural products.



Upon assessing the condition of the R345 route, which serves as the primary access route to Hogsback, AMETA argued that this route is only suitable for larger vehicles, such as four-wheel drives, especially during adverse weather conditions or heavy rainfall. Standard cars are deemed inadequate for navigating this road due to its current state. Despite ongoing efforts to repair the tarred section of the Hogsback Pass, particularly addressing potholes, these measures are deemed insufficient in adequately addressing the road's deteriorated condition. While acknowledging the significance of the R345 route beyond tourism, it is just one aspect of the issue. Additionally, there exists a network of dirt roads connecting all the villages and historical attractions in the area, which also require immediate attention and investment to ensure the continued growth and prosperity of the region's tourism industry.

Considering these challenges, it was asserted that the impact of poor road conditions extends beyond inconveniences experienced by regular road users and encompasses the inaccessibility of tourist destinations or attractions within Hogsback. For instance, areas such as Hobbiton and Seymour become completely inaccessible during inclement

weather, and the latter can only be accessed by certain vehicles. Consequently, the Amathole region is being promoted as an adventure destination, accessible only by 4x4 vehicles and bikes. Moreover, certain roads become unusable and inaccessible when approaching from specific routes. For instance, with DR7300 rendered unusable, logging trucks are compelled to use the R345, hastening the road's degradation.

The logging industry exacerbates road wear during harvesting seasons, with trucks transporting timber continuously for 24 hours a day over two months. This constant traffic contributes not only to noise pollution and dust but also significantly impacts road quality. As a result, the roads endure heavy traffic from 50 to 60-ton trucks over the years, necessitating constant patching. During rainy periods, inadequate drainage combined with heavy truck traffic leads to the rapid degradation of patched potholes. Despite efforts to repair potholes, they quickly deteriorate under the strain of heavy trucks, perpetuating an endless cycle of road maintenance. Contractors engaged for repair and maintenance tasks have indicated the futility of mere patchwork due to the road's susceptibility to quick deterioration, particularly during rainy seasons. These trucks include logging trucks, milk trucks from dairies, and vehicles delivering goods to local supermarkets.

The significant repercussions stemming from the inadequate road conditions are said to have prompted shift in the trajectory of tourism growth. It is argued that Hogsback witnessed a notable alteration in tourism dynamics prior to 2000. Initially, the region recorded an estimated 10 to 12,000 bed nights annually within the formal hospitality sector. However, with the emergence of touring the Hogsback Pass around 2010, there purportedly occurred a remarkable upsurge in tourism. Despite only the upper section of the pass being toured, while the lower section had previously been tarred, this growth was exponential, elevating bed nights from approximately 15,000 to a peak of around 50,000 annually.

As stated by AMETA, the average tourist in South Africa typically spends about 2,000 rand per day on various tourist products, encompassing meals, accommodation, events, and crafts. Despite the Eastern Cape being recognized as a more budget-friendly tourist destination, recent statistics suggest that tourists spend approximately 1,750 rand per day in the region. Nonetheless, this still equates to an estimated annual tourism turnover of 87.5 million rand for Hogsback and its immediate environs, underscoring the enduring allure and economic importance of the area. Despite Hogsback boasting numerous attractions, a significant portion of them remains unexplored due to poor road conditions. For example, the Kubusi Kingdom boasts more forts than the entirety of South Africa combined; however, it is posited that about 90% of them remain inaccessible due to road conditions. Moreover, the area possesses a rich tapestry of cultural diversity and historical significance unmatched elsewhere in the country. However, notwithstanding these features, there exists a significant challenge in effectively transporting tourists to these sites.



AMETA argued that the expansion of the tourism sector relies not solely on attracting tourists but also on the availability of personnel to support it as a service-oriented industry. The hospitality sector, in particular, is heavily reliant on labour, allocating a substantial portion—around 30 to 33%—of its turnover to employment. This indicates that Hogsback contributes an estimated 26 to 28 million rand annually to salaries and wages in the region, underscoring the crucial role of employment generation in sustaining the local economy. From a socioeconomic perspective, it is argued that individuals engaged in various tourism-related activities, whether in full-time formal positions, Airbnb hosting, tour guiding, crafts, or hospitality services, play a pivotal role in channelling revenue into the local economy.

The primary concern revolves around the diminishing demand for accommodations, decreasing by approximately 7% every two weeks. This fiscal year has witnessed a significant 30% decline, attributed to two main factors: conflicts with the forestry industry and the adverse effects of heavy truck traffic on the roads. The experience of trailing a logging truck along the Hogsback Road, engulfed in dust with narrow lanes hindering overtaking, exemplifies the challenges encountered. Consequently, potential visitors are dissuaded, resulting in a reduction in both visitor numbers and revenue instead of the anticipated growth.

While the condition of the roads undoubtedly plays a significant role, it was submitted that it is essential to acknowledge that other factors may also contribute to the decline. This encompasses the impact of both the COVID-19 pandemic and the prevailing economic conditions. It was noted that certain businesses experienced unforeseen advantages owing to adequate insurance coverage. Following the onset of the pandemic, there purportedly occurred a marked increase in visitors to Hogsback, leading to a substantial upsurge in profits. This surge amounted to a noteworthy 62.7% increase above the three-year pre-COVID average, adjusted for a 6% inflation rate. The rise in visitors was primarily driven by affluent South Africans exploring domestic destinations like Hogsback, given the restrictions on international travel.

Beyond its effects on tourism, the condition of the roads poses hazards for pedestrians. Despite efforts to mitigate risks through the installation of speed bumps, challenges persist due to the difficulty of placing obstacles without obstructing pedestrian pathways. Consequently, the central area of Hogsback has become particularly perilous, with school children and commuters compelled to navigate around vehicles manoeuvring to avoid potholes. Furthermore, road maintenance in Hogsback has been inadequate for the past decade, exacerbating safety concerns and impeding essential services. The deteriorating roads not only affect medical response, mountain rescue, and police services but also impact local businesses, including the security company, which faces difficulties in maintaining sufficient response vehicles due to budget constraints. Additionally, the prolonged neglect of road maintenance has been a longstanding issue, and despite sporadic attempts to address road conditions, such endeavours have proven insufficient,

resulting in a cycle of temporary fixes and subsequent deterioration.

Reflecting on past attempts to improve road infrastructure, AMETA submitted that there have been instances of incomplete projects and mismanagement of resources. For instance, a significant investment in road resurfacing in 2010 failed to address the fundamental issues, leading to subsequent disruptions and financial losses. Similarly, a court case against a construction company further disrupted road improvement initiatives, highlighting systemic challenges in project execution and governance. This issue prompted engagement with the local municipality, but these efforts did not yield concrete results. Although the provincial government at the district level deployed personnel to assess road conditions and carry out patchwork, the lack of significant action has spurred community-driven initiatives aimed at road maintenance. One such initiative involves the establishment of a dedicated bank account to allow community members to contribute funds specifically for filling potholes. Additionally, local farmers have taken proactive steps, such as pooling resources and using privately acquired graders and equipment to repair roads.

AMETA contends that there is a pressing need for road maintenance and improvement in Hogsback. Past endeavours have fallen short of achieving lasting solutions, highlighting the urgency of addressing pedestrian safety concerns, ensuring the provision of essential services, and revitalising the local economy.

#### **5.1.2. UNIVERSITIES, CHAPTER 9 INSTITUTIONS AND NON-GOVERNMENTAL ORGANISATIONS**

##### **5.1.2.1. RHODES UNIVERSITY (PUBLIC SERVICE ACCOUNTABILITY MONITOR)**

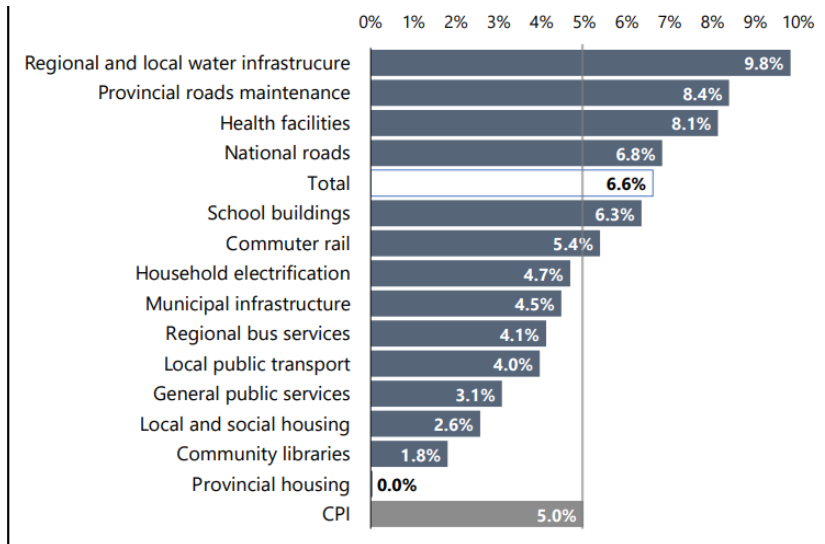
The PSAM submitted that safe, accessible public roads and transport are vital for a range of development objectives for any country. Stating that, in South Africa, road and transport accidents are significant causes of injury and fatalities. Key amongst the factors leading to road accidents is poor road conditions, including potholes, uneven surfaces, and inadequate lighting. Whereas, in relation to provincial road infrastructure, the Eastern Cape Department of Transport notes the following in the 2022/23 Annual Report:

*“The provision of quality transportation infrastructure is still constrained by the backlog that can be attributed to the apartheid homeland legacy and inadequate funding. Only 9% of provincial roads are surfaced compared to the average of 25% for the entire country. This amounts to a backlog of over 1358 km of provincial surfaced roads to bring the Eastern Cape into alignment with the average of the other Provinces.”*



Furthermore, the PSAM noted the admission by the Department that “(d)ue to funding constraints, priority will be placed on paved roads due to the critical stage of their relatively high asset value that can still be preserved” and argued that this is of particular concern given the deteriorating conditions of current roads and a worsening provincial economic climate. Alarming, the Department in its 2022/23 Annual Report admits that at the current pace and fiscal allocations no new capital projects will be possible until 2044.

In its review of the 2023 budget, PSAM submitted that there were important trends to take note of. Particularly the significant growth planned for capital spending, which included transfers to government agencies or a range of functions including road infrastructure and increases in transfer for large infrastructure to local government. This analysis is based on the National Public Infrastructure Spending Growth: 2019 – 2024, as seen below:



The situational analysis as provided by the Department itself is dire. Where the provincial road network is concerned, the Department reports that the province has an unpaved road network of about 90.8% of the total network of +/- 40 000km. Only 9.2% of the provincial road network is reportedly paved. This is at a significant contrast to the 25% of paved road networks for the entire country, amounting to a backlog of over 1 358 kilometres of provincial surfaced roads required to bring the Eastern Cape into alignment with the average of the other provinces. In spite of this - unpaved roads will receive limited priority owing to what the Department refers to as 'funding constraints. The Department attributes the significant road infrastructure backlog primarily to funding constraints. From an accountability perspective, it is notable that while a requirement of the Division of Revenue Grant (the Provincial Roads Maintenance Grant - PRMG) is that the Provincial Treasury must, via its equitable share, provide the equivalent quantum for its respective Transport Department, this reportedly is not undertaken in the Eastern Cape. Instead, the Eastern Cape Province reportedly draws primarily on the PRMG for road infrastructure.

In relation to upgrades, the Department's annual average allocation amounts to R750 Million for road upgrades. This - along with the Department's budget decreases year-on-year (see chart below) is noteworthy. According to the Department's most recent annual report - this funding context means they are only able to afford 42 km per annum where an average cost of R18 million per kilometer is applied.

Expenditure of the Provincial Roads Maintenance Grant (PRMG) is vital. This grant was introduced in 2011/12 as a means of supplementing funding sources for road construction and maintenance. Amongst the objectives of the PRMG is to supplement provincial projects for the repair of roads and bridges damaged by unforeseen incidents, including natural disasters; and (importantly), to improve road safety with a special focus on pedestrian safety in rural areas. The conditional grant allocation criteria includes the following;

- The extent of the provincial road network (gravel/paved), the traffic volumes, the

visual condition indices on the network and geo-climatic and topographic factors.

- Unallocated amounts in 2022/23 and 2023/24 will be allocated as an incentive based on the level of service efficiency achieved in road project investments undertaken.

The PSAM further argued that road infrastructure involves multiple spheres of government, stating that it is vital that municipal authorities, where relevant are also held accountable for the delivery of and transparent reporting on related plans.

In terms of planning and challenges relating to it, the Department's Annual Report explains: *"The development of the Provincial Transport Master Plan which seeks to provide direction on how to address the backlog and also define a more systematic approach in infrastructure investment is in the finalisation stages of completion."*

The Department further states that in addressing the 1 358 km backlog of several hundred major culverts and bridges, a commitment was made to upgrade 1 732 km from gravel to surfaced standard since 2007. Reportedly, only 22% (373 km) has been upgraded to date. An issue that is not unique to the Department is inefficient or weak maintenance of capital infrastructure. The need to improve in this area is highlighted in planning documents. However - given the budget constraints and dire need in the province, PSAM argued that there is a need for oversight entities such as the legislature to compel the Department to develop and report against asset management plans that not only reflect the status quo of all roads across the province but also current maintenance levels and expenditure. It is encouraging to note that the Department reports that *the* tender for the managing consultant was awarded and conditions assessments of road assets are underway.

#### 5.1.2.2. **AgriEC**

AgriEC drew attention to the significant challenges confronting both the agricultural sector and rural communities as a consequence of the deteriorating road infrastructure across the province. This issue was not only undermining economic viability and employment prospects but also obstructs access to farms, markets, and emergency services, particularly during adverse weather conditions, with rural communities bearing the brunt of the impact. Furthermore, the substandard road conditions exacerbate job losses, escalate transportation expenses, and diminish market competitiveness for farmers, resulting in delays in transporting produce to harbours and compromising revenue generation within the agricultural sector. Certain regions, such as Tsitsikamma, Alexandria, Cradock, Patensie, Sundays River Valley, and Langkloof, are profoundly affected by road degradation, requiring prioritised infrastructure upgrades.



Notwithstanding facing budgetary constraints, AgriEC put forth actionable recommendations aimed at optimising fund utilisation. These suggestions include the engagement of local contractors familiar with the area's roads, aligning the tender process with private contractor rates, and formalising project steering committee meetings to effectively prioritise critical roads. In response to these challenges, AgriEC pursued legal action against the ECDOT, seeking a structural interdict to establish a procedure allowing farmers to lawfully undertake emergency road repairs under departmental supervision. Additionally, the proposal includes involving public individuals in executing necessary work under departmental supervision during emergencies, coupled with the implementation of a comprehensive quality control system to ensure adherence to specified standards throughout the project lifecycle.

#### 5.1.2.3. **Auditor General South Africa (AGSA)**

In its submission, the AGSA provided comprehensive insights into the auditing procedures concerning financial statements and supplementary audits concerning pre-performance information and compliance. Within the province, three government bodies oversee the road network: SANRAL for national roads, ECDOT, and local government. In assessing the financial management practices, particularly within the ECDOT over the

past few years, the AGSA noted stagnation in audit outcomes, resulting in repeated instances of fruitless and wasteful expenditure. While initially attributed to scholar transport, issues with contractors and roads also contributed to these outcomes.

At the time of reporting, the ECDOT received a qualified audit, a status it has held since 2018-19, primarily due to similar issues.

The AGSA highlighted various instances of fruitless and wasteful expenditure, including



overpayments totalling R 29 million for scholar transport and R 1.2 million for consultant fees. Issues with road construction also led to an estimated understatement of R 33 million due to overpayment for materials and an additional understatement of R 11.9 million due to incomplete projects. The AGSA further pointed out irregular expenditure related to the National Land Transport Act, amounting to R 215 million, associated with the renewal of the Algoa Bus Company contract without proper procurement procedures.

Moreover, systemic weaknesses in contract management and financial controls within the ECDOT were evident. Instances of missing assets, regression in audit opinions, and issues with contract terminations highlighted these weaknesses. Despite ongoing efforts to address these challenges, progress has been slow, with significant road and bridge repair projects facing delays due to contracting and payment issues.

In addition to these challenges, deficiencies in project management and local government performance were noted. A significant portion of municipalities reported material findings on performance reports, indicating broader governance issues. Concerns regarding the mismanagement of disaster relief funds further compounded these challenges.

To address these issues, the AGSA emphasised the need for improved leadership, governance processes, and consequence management. Investigations into financial mismanagement have been initiated, and additional powers have been invoked to ensure accountability. However, challenges persist, particularly in budgeting processes, contract management, and debt recovery efforts, underscoring the need for comprehensive reforms and improved oversight mechanisms within the ECDOT and local government structures.

#### **5.1.3. Amadlelo Agri (Ncora Irrigation Scheme)**

In its submission, Amadlelo highlighted the fundamental importance of road access in shaping its operational framework, particularly concerning commercial farming activities at the Ncora Irrigation Scheme and Seven Stars Co-op. The Ncora Irrigation Scheme operates through a partnership involving ten villages that have formed a producer assembly secondary co-op. Conversely, the Seven Stars farm benefits 35 members from the primary co-op and spans across 5,472 hectares, housing a livestock count of 8,167, which includes both cattle and sheep crucial for breeding programs. The farm employs 176 staff members, including students undergoing service training. Milk sales from Seven Stars are divided, with roughly 50% sold to Sunningdale and the remaining 50% sold locally, with a portion utilised within the community for various purposes.

However, there has been a noticeable decline in Seven Stars' output, with annual milk production plummeting from 10 million to approximately 4 million litres, leading to the cessation of factory operations. This downturn has had severe economic repercussions, resulting in reduced employment opportunities and income for beneficiaries, further



exacerbating local unemployment rates. Additionally, challenges in quantifying the farm's exact monetary value persist, hindering potential investment attraction due to inadequate infrastructure. Furthermore, concerns arise regarding the quantity of locally sourced concentrate, as a significant portion of maize is procured from distant areas, incurring substantial expenditures. Redirecting this expenditure locally could potentially generate more value within the community. Although the farm previously supported local farmers through irrigation initiatives, recent challenges have rendered such endeavours less feasible.



Amadlelo contends that the farms cannot operate to their maximum capacity due to persistent challenges arising from infrastructure limitations, particularly during the rainy season when road conditions deteriorate, hampering transportation, disrupting supply chains, and compromising product availability in the market. Costly interventions, such as engaging excavators to address truck failures and road blockages, further strain operational budgets. Despite sporadic road maintenance efforts, infrastructure challenges persist, necessitating urgent action to bolster support for local businesses and promote community well-being. To address this issue and its far-reaching impact, Amadlelo asserts that it has engaged with the municipality numerous times, resulting in some temporary improvements. However, the long-standing promise of road repairs remains unfulfilled. Despite advocacy efforts by Amadlelo, the road situation has seen little substantial progress, perpetuating a state of infrastructure inadequacy that continues

to impede business operations and daily life for residents.

#### **5.1.4. Trust for Community Outreach and Education (TCOE)**

According to the submission by the TCOE, it argued that despite the Eastern Cape Rural Transport Plan: Strategic Framework 2004-2014, substandard road infrastructure continues to persist, posing significant challenges for the predominantly rural population reliant on these roads for daily travel. Stating that the plan, intended to enhance access to economic opportunities and social services, ensure affordable transport, prioritise safety and quality, promote transport integration, and optimise resources, has not effectively addressed the ongoing deterioration of roads.

The TCOE's submission highlights specific instances of deteriorating road infrastructure, particularly concentrated in former Bantustans like Transkei and Ciskei. These examples were said to highlight a historical legacy of neglect dating back to apartheid-era spatial development plans, which further exacerbates the marginalisation of rural communities. For example, roads in villages under the Amathole municipality, such as the routes from Debe Nek to Breakfast Vlei and from Dimbaza to Masingatha village, remain unpaved despite promises made by the Department of Roads and Transport in 2014. Similarly, routes connecting Sakhisizwe and Intsika Yethu local municipalities, like those from Cala through Askeaton to Cofimvaba, exhibit severe deterioration, ignoring residents' calls for improvements and fostering a sense of abandonment.

In urban areas like Cala, Khowa, Mdantsane, Berlin, Stutterheim, Cathcart, Makhanda, Motherwell, and Uitenhage, inadequate internal roads contribute to resident dissatisfaction and even legal disputes. Furthermore, in villages like Scambeni in the Nyandeni Local Municipality, the inaccessible road to the sea severely impacts fishers, highlighting prolonged neglect with dire consequences for resident' livelihoods and overall well-being.

The TCOE highlighted that these specific cases reveal a stark reality for residents who rely on these roads for their daily lives. From unpaved routes in rural villages to inadequate internal roads in urban centres, the impact of substandard infrastructure is felt, leading to discontent, legal actions, and adverse effects on livelihoods.

## **5.2. DISTRICT MUNICIPALITIES**

### **5.2.1. Chris Hani District Municipality (CHDM)**

The submission provided by the CHDM outlined its involvement in infrastructure assessment, particularly road conditions, and its utilisation of the Roads Maintenance Grant, aimed at addressing road infrastructure challenges within its jurisdiction. Over the 2021/22 financial year, the municipality allocated 100% of the grant toward road

maintenance, reflecting the pressing need due to the state of roads in the area.

The CHDM submitted that it assists local municipalities in accessing disaster relief funds, contributing to disaster management efforts. The district has been allocated an RM grant of R 9 million over three years, with a contracted service provider assisting in RM work, particularly focused on gravel routes. However, challenges persist with specific roads, including the Asset Road leading to Zuku Community and Routes R35 and R61, all exhibiting poor conditions despite discussions with the Eastern Cape Department of Transport.

The impact of poor road conditions on accessibility to basic services is significant, affecting communities' access to essential services, especially during adverse weather conditions. Scholar transport, healthcare access, and industries such as dairy farming are adversely affected, impacting economic development. The CHDM has prioritised oversight through technical and political forums, monitoring service delivery and outreach efforts, although challenges such as low revenue collection, infrastructure vandalism, and disasters persist.

Efforts to enhance revenue collection include the introduction of tamper-free smart meters, debt collection strategies, and engagement with provincial and national authorities. Despite limited resources, the CHDM intervenes in road repairs, emphasising accountability mechanisms within local municipalities. The district relies on RAMS data to identify roads for repair, with a significant portion of gravel roads in poor condition.

The CHDM recognises the impact of poor road conditions on investment development and is actively pursuing LED projects to revitalise industries and attract investments, aiming to improve the district's revenue base and residents' livelihoods in the long run. Through initiatives in sectors like mining and agriculture, the municipality aims to transform the socio-economic landscape and improve residents' quality of life.

### **5.2.2. Amathole District Municipality (ADM)**

In its submission, the ADM highlighted in relation to infrastructure, it relies on the RAMS program to equip it with developing tools for prioritising infrastructure expenditure and that the maintenance of RAMS is that of the municipality to ensure that RAMS is maintained after the lifespan of the grant, employ civil engineering graduates to be trained and skilled in the operation of the RAMS, road infrastructure planning and maintenance, ensure human resources capacity at municipalities for operation of RAMS and ensure that it is used for planning Municipal Infrastructure Grant investments (MIG).

Rural roads asset management systems grant<sup>2</sup>, as seen below,

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<sup>2</sup> As outlined in the Division of Revenue Act (DORA), this grant is designated to support rural district municipalities in establishing their

<b>Rural Roads Asset Management Systems Grant</b>	
<b>Transferring department</b>	<ul style="list-style-type: none"> <li>• Transport (Vote 40)</li> </ul>
<b>Grant schedule</b>	<ul style="list-style-type: none"> <li>• Schedule 5, Part B</li> </ul>
<b>Strategic goal</b>	<ul style="list-style-type: none"> <li>• Ensure efficient and effective investment in municipal roads through development of road asset management systems (RAMS), collection and analysis of data</li> </ul>
<b>Grant purpose</b>	<ul style="list-style-type: none"> <li>• To assist district municipalities to set up rural RAMS, and collect road, bridges and traffic data on municipal road networks in line with the Road Infrastructure Strategic Framework for South Africa</li> </ul>
<b>Outcome statements</b>	<ul style="list-style-type: none"> <li>• Improved data on municipal roads to guide infrastructure maintenance and investments</li> </ul>
<b>Outputs</b>	<ul style="list-style-type: none"> <li>• Road condition data (paved and unpaved) as per prescribed Technical Methods for Highways (TMH-series)</li> <li>• Traffic data</li> <li>• Data on condition of structures (including bridges and culverts) as per prescribed Technical Methods for Highways (TMH 19 series)</li> <li>• Borrow Pit Management data</li> <li>• Safety assessments data</li> <li>• Prioritised project list for roads to inform Municipal Infrastructure Grant project selection</li> </ul>
<b>Priority of government that this grant primarily contributes to</b>	<ul style="list-style-type: none"> <li>• Priority 5: Spatial integration, human settlements and local government</li> </ul>
<b>Details contained in the business plan</b>	<ul style="list-style-type: none"> <li>• This grant uses Road Asset Management Plans (RAMPs)/business plans which contain the following details: <ul style="list-style-type: none"> <li>○ network hierarchy</li> <li>○ performance management framework</li> <li>○ gap analysis</li> <li>○ information systems</li> <li>○ lifecycle planning</li> <li>○ current and future demand</li> <li>○ financial plan</li> <li>○ monitoring</li> <li>○ reviewing</li> <li>○ plans for continual improvements including sharing data with local municipalities</li> </ul> </li> </ul>

Source: Amathole District Municipality

### 5.2.3. Alfred Nzo District Municipality (ANDM)

In the submissions made by the ANDM, it was highlighted that the impact of poor road conditions significantly affects the quality of life of residents. It was further noted that irregular road maintenance escalates costs, both directly and indirectly, as neglected roads often require rehabilitation at four times or more the cost of regular maintenance. Prompt road repairs, by contrast, tend to be more cost-effective.

The ANDM referenced SANRAL's cost estimates, noting that repair costs can rise up to six times the maintenance costs after three years of neglect and up to 18 times after five years. To mitigate such costs, SANRAL allocates available funding resources first to ideal maintenance actions, such as resealing, and then to more extensive maintenance actions like light rehabilitation, heavy rehabilitation, or new construction.

There are various mechanisms in place to assist with the facilitation of road maintenance one of which is the maintenance strategy. As part of the recommendations made by the ANDM, it was stated that annual visual condition assessments must be conducted to evaluate the success of the maintenance plan and to update the maintenance and rehabilitation programs. The ANDM emphasised that it is imperative to inspect roads identified for maintenance and rehabilitation before finalising the budget and priority list.

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road infrastructure, asset management systems, and gathering road and traffic data, aligning with the Road Infrastructure Strategic Framework for South Africa.

#### **5.2.4. O.R Tambo District Municipality (ORTDM)**

The ORTDM, in its submission, highlighted that throughout the district municipality, provincial roads exhibit varying conditions, with many provincial and municipal roads adversely affected by persistent disasters. These recurring challenges have necessitated the initiation of multiple projects aimed at repairing the damaged infrastructure. Consequently, significant funding investments have been directed across the five municipalities to support disaster response and road infrastructure rehabilitation within the district. This coordinated approach underscores the critical need for ongoing investment and collaborative efforts to maintain and improve the transport network amidst the challenges posed by natural disasters.

#### **5.2.5. Joe Gqabi District Municipality (JGDM)**

As per the submission from the JGDM, it confirmed that it has jurisdiction over an expansive area exceeding 2000 kilometers, the district comprises three distinct local municipalities: Walter Sisulu, Elundini, and Senqu. While JGDM is not directly responsible for road maintenance, it acts as an agent for the Eastern Cape Department of Transport (ECDOT), primarily in the Walter Sisulu area. This role extends to the upkeep of proclaimed provincial farm roads within the municipality's jurisdiction, while other roads fall under ECDOT's or designated service providers' purview.

The mountainous terrain of JGDM, coupled with variable rainfall patterns—averaging around 600 millimeters in the East and 1,000 millimeters in the West—poses significant challenges in road maintenance. These climatic conditions necessitate ongoing upkeep, exacerbated by the effects of climate change. Intense downpours lead to erosion of drainage channels, bridge collapses, and loss of road surface gravel, thereby increasing the demand for maintenance. The decline in road infrastructure quality affects the frequency of maintenance and supervisory visits to outlying infrastructure and services, contributing to their deterioration over time. Accessibility issues arise due to inaccessible areas, hindering outreach and public participation programs.

Consequently, communities frequently report impassable roads, hindering access to essential services such as clinics, schools, and town centres. Poor road conditions also affect scholar transport, prolonging travel times for learners. Instances of limited access to healthcare facilities and law enforcement services have also been noted. The ramifications extend into agriculture and forestry within the region, where farmers encounter obstacles in transporting goods from rural areas due to substandard roads. This situation leads to increased transportation costs passed on to consumers, diminishing the competitiveness and availability of local agricultural products. Similarly, the service industry and tourism sector suffer as certain attractions and accommodations become inaccessible, impacting tourist traffic and the sector's competitiveness.

In response, the JGDM council has engaged with the ECDOT to expand road maintenance beyond Walter Sisulu, resulting in a reduction in complaints. The municipality involves communities in consultative processes, addresses grievances promptly, and explores extending its mandate to include more areas. However, limited financial and resource capacities constrain local municipalities' abilities to address all challenges simultaneously.

To mitigate these challenges, the JGDM maintains its Service Level Agreement with the ECDOT for consistent road maintenance and adopts innovative approaches like increased telemetry usage and social media dissemination. Despite efforts, inadequate road access in rural areas remains a significant obstacle to government service provision and economic development.



### 5.3. GOVERNMENT DEPARTMENTS AND PARASTATALS

#### 5.3.1. Eastern Cape Department of Education

The ECDOE, mandated with providing education, highlighted in its submission the crucial role of road infrastructure in ensuring accessibility to the right to education and stated that the challenges it faces as a result of poor road conditions affects its ability to effectively fulfil its mandate.

Access to education relies on multiples factors and one of those include scholar transport. The ECDOE argued that the provision of scholar transport remains a crucial determinant of educational access; however, as it stands it is significantly affected by provincial road conditions. Challenges associated with scholar transport force learners without access to

it to resort to alternative transportation modes, often enduring challenging journeys to school. Alarming incidents, such as learners crossing rivers during heavy rains, highlight the dire consequences, sometimes tragic. Consequently, learners face increased dropout rates and perilous commutes, disrupting their educational pursuits.

Among the myriad factors facilitating education access, scholar transport stands out as pivotal. The ECDOE contends that its provision remains crucial, yet it is significantly hampered by provincial road conditions. Challenges associated with scholar transport compel learners without access to it to seek alternative modes of transportation, often enduring arduous journeys to school. Alarming incidents, like learners crossing rivers during heavy rains, underscore the dire consequences, sometimes resulting in tragic outcomes. Consequently, learners face heightened dropout rates and perilous commutes, disrupting their educational pursuits. Delays in enrolment further compound the issue, with younger learners unable to navigate lengthy distances, resulting in late enrolment. The issue extends to the average age for enrolling in the schooling system in the province, estimated to be between 8-10 years, as children may not be old enough to endure long walks, necessitating a delay in entry. Adverse road conditions also impact educators, particularly in rural areas where they significantly differ from urban areas, complicating access to educational facilities and deterring personnel retention.

Despite road development challenges, the ECDOE highlighted achievements during the 2019 to 2023 sixth administration, notably the construction of numerous schools across 12 districts. Currently, 471 projects, valued at 4.2 billion, are underway, with 36 high-value projects totalling a R 1.845 billion allocation for the 2023-2024 Financial Year, directly aligned with the department's strategic objectives aimed at enhancing pedagogical practices. Additionally, 250 fencing projects have been initiated, with 122 completed in the previous fiscal year and 128 ongoing.

To address these challenges, the ECDOE advocates for integrated planning across governmental levels, optimising resource allocation for maximum societal impact. Effective planning must translate into tangible implementation.

### **5.3.2. Eastern Cape Department of Health**

The ECDH highlighted the crucial role of road infrastructure in ensuring the delivery of high-quality healthcare services across the province. It argued that well-maintained roads are indispensable for efficiently reaching communities and advancing efforts to enhance healthcare accessibility, considering the province's vast geographical expanse. Beyond healthcare provision, the ECDH emphasised that its mandate extends beyond facilitating and ensuring access to healthcare but also entails the transportation of personnel and essential supplies, including medications and medical equipment, to communities in need. However, the absence of these vital goods and services undermines its capacity to deliver effective healthcare, leading to delayed emergency responses, especially during

heavy rainfall that damages existing infrastructure, thereby posing potential harm or fatalities. These delays often culminate in litigation against the department, highlighting the serious consequences of deficient road infrastructure. Moreover, transport-related accidents rank among the top five causes of non-natural deaths, necessitating urgent attention to address road infrastructure deficiencies.



Consequently, the ECDH allocates a significant portion of its budget to maintaining its vehicle fleet, while frequent motor vehicle accidents due to poor road conditions impose additional strain on healthcare services. Additionally, the ECDH submitted that it actively engages with local and district municipalities through platforms such as Integrated Development Plans (IDPs) and the District Development Model (DDM) to advocate for road infrastructure improvements. Despite these efforts, regional disparities persist, with certain districts hosting a larger number of clinics compared to others due to differences in population size and geographic area. Specific challenges highlighted include increased travel time during emergencies, wear and tear of emergency vehicles, inaccessibility of certain communities, irregular clinic visits due to vehicle breakdowns, and reluctance by service providers to deliver goods, thereby affecting healthcare service provision.

The ECDH indicated that the challenges stemming from inadequate road conditions stretch its capacity to provide comprehensive care, negatively impacting the delivery of



quality health services. Thus, it was highlighted that addressing road infrastructure deficiencies is vital for ensuring the effective fulfilment of the ECDH's mandate and promoting public health and well-being across communities.

The ECDH further indicated that the state of roads in the Eastern Cape has severely impacted the ability of Emergency Medical Services (EMS) vehicles to reach patients in a timely manner. The often impassable roads delay critical response times, leading to tragic outcomes for those in urgent need of medical care. As a result, the Department of Health faces a surge in medico-legal claims, as families and communities seek justice for the harm caused by these delays. The financial burden of these claims is immense, exacerbating the department's already strained resources, and highlighting the dire need for immediate improvements to the province's road infrastructure.

### **5.3.3. Department of Cooperative Governance and Traditional Affairs (COGTA)**

The inadequate road infrastructure within the province was argued to significantly hamper COGTA's mission to support municipalities, as it restricts access to areas where community development initiatives are underway. This consequently hinders the promotion of cooperative governance. This issue further impacts COGTA's ability to mitigate disasters and enhance emergency preparedness is observable. The Provincial Disaster Management Centre (PDMC), tasked with coordinating disaster management, faces difficulties in reaching certain areas for disaster awareness and response when incidents do occur. COGTA further stated that municipal executive leadership often grapples with community complaints regarding overall road conditions. Some municipalities even seek external funding support to maintain provincial roads and request SANRAL's assistance in fixing roads outside their mandate when working in the area. Some of the impact of poor road conditions is seen across various departments. For instance heavy-duty vehicles, such as those from the Department of Home Affairs, struggle to reach intended destinations, affecting participatory democracy initiatives like Ward War Rooms, petition management, and Mayoral Imbizo. Sector departments often fail to attend scheduled meetings due to the poor road conditions, resulting in suboptimal outcomes. Other challenges have been observed in specific cases too where for example municipalities intending to construct water treatment plants in remote rural areas have faced delays or cost escalations due to poor or non-existent road networks. Similarly, the establishment and development of townships are often hindered by the lack of accessible roads, as the availability and condition of access roads are key conditions for approval. COGTA further contended that there is also a clear correlation between the quality of infrastructure and community settlement patterns. Communities tend to gravitate towards areas near major provincial and national roads to ensure easier access to amenities and services.

In line with the requirements of the Division of Revenue Act Municipal Infrastructure Grant (DORA MIG) Framework, COGTA is mandated to establish District Appraisal Committees

(DACs) to assess planned municipal road projects and influence funding allocation approvals from the national COGTA. The regulations outlined in Section 47 (1) (b) of the Disaster Management Act guide COGTA in framing and influencing the institutionalisation of integrated infrastructure engineering. Catalytic road infrastructure projects in the province are incorporated into comprehensive plans to promote integrated planning. COGTA's legislative mandate under the Disaster Management Framework informs an integrated approach to addressing road infrastructure challenges.

In line with this mandate, and specifically with regard to proposed strategies or interventions, COGTA suggested proactive planning, including road planning for growth areas, especially where future human settlements are planned. It further confirmed that it aims to engage with municipalities to prioritise roads leading to service and business areas, followed by those connecting community members to their homes. Municipalities are said to be encouraged to procure yellow fleet vehicles for in-house maintenance of access roads, rather than relying on external contractors. This recommendation comes in light of the significant cost associated with constructing gravel roads, which typically averages around R700,000 per kilometer. Additionally, COGTA emphasised the importance of urging the DOT to prioritise the maintenance of provincial roads, especially to enhance access to rural villages. Ensuring alignment in planning between the Department of Transport (DOT) and municipalities is crucial to promote seamless road conditions and mitigate disparities between connector provincial roads and adjoining access roads.

To ensure the full utilisation of the allocated funds, the department has developed and is currently implementing the Risk Adjusted Strategy (RAS), where the MEC is championing forward planning, project procurement before the commencement of the municipal financial year and realisation of project expenditures earlier than the Division of Revenue Act (DORA) regulated timelines. The RAS targets are incapsulated in the performance contracts of Municipal Managers, Chief Financial Officers, Directors for Infrastructure, Project Management Unit Managers and Supply Chain Managers to facilitate a coherent approach to infrastructure project implementation. The MEC is further embarking on periodic RAS monitoring meetings where mayors are made to account on the infrastructure performance. COGTA is of the view that this enhanced monitoring together with the convening of support meetings through District Wide Infrastructure Forums (DWIFS) as well as the technical support will improve the overall infrastructure performance of provincial municipalities.



#### 5.3.4. Department of Economic Development, Environmental Affairs and Tourism (DEDEAT)

DEDEAT averred that the Eastern Cape province's wealth of natural resources, human capital has promising socio-economic potential. However, the region is faced with deficient road infrastructure creating barriers to community connectivity and vital economic endeavours. Historical development biases in favour of urban areas over rural locales have perpetuated this issue. Throughout the province's nature reserves, inadequate funding for maintenance and a lack of coordination among governmental levels persist, prolonging the challenge of access roads. Notably, these road deficiencies hamper tourism projects, with key sites like viewing decks and chalets suffering damage or becoming inaccessible. The floods of 2022 inflicted severe damage on nature reserves such as Hluleka and Dwesa, destroying roads and bridges, complicating access, and impeding infrastructure development initiatives. Instances like the Tabarha Bridge and road sections with visible sinkholes underscore the profound impact of climate change on infrastructure, underscoring the urgent need for comprehensive improvements in these reserves.

It was asserted that insufficient road access significantly undermines productivity and

discourages potential investors, resulting in divestment, business closures, and subsequent job losses. Furthermore, inadequate road conditions hamper service delivery, particularly in consumer protection services, leading to the establishment of a dedicated call centre for consumer complaints. Sectors like the liquor industry encounter difficulties in distributing products to outlets and smaller trader establishments due to transportation challenges. Similarly, trade inspectors face hurdles in carrying out their duties, exacerbated by heavy rains worsening road conditions province-wide. The deteriorating access roads not only impact tourism but also impede access to essential amenities such as settlements, education, and healthcare facilities. Infrastructure projects in protected areas, like the Dwesa/Cwebe Nature Reserve, remain stalled due to these road challenges, delaying crucial developments such as tourist facilities and research centres.

Importantly, DEADAT emphasised that tackling these road infrastructure deficiencies offers the potential to spur economic growth and job creation. This can be achieved by improving access to markets, boosting agricultural productivity, and reducing food prices through enhanced trade relations among producers. Moreover, upgrading transportation infrastructure holds the promise of safer and more efficient travel for rural communities, thereby contributing to overall rural economic development.

#### **5.3.5. South African Police Services**

In its submission, the SAPS emphasised that the poor or inadequate condition of road infrastructure within the province significantly affects response times, often leading to delays. According to the SAPS, the landscape plays a crucial role in response times to emergencies. Rural areas, particularly those isolated or situated far from the nearest police station, face challenges in responding to reported incidents due to the distance travelled, road conditions, and weather conditions.

The adverse road conditions not only directly impact emergency response but also escalate maintenance needs for the SAPS fleet, affecting overall law enforcement effectiveness. Maintenance tasks such as windscreen repairs, clutch replacements, tire changes, and suspension repairs are frequently required, leading to increased maintenance costs. This, in turn, affects the availability of vehicles to serve communities, further hampering service delivery.

It was contended that Improving road infrastructure would contribute to enhanced service delivery, reduced response times, and increased visibility within communities. Such improvements are essential for ensuring effective law enforcement operations and enhancing overall safety and security.

### 5.3.6. South African Roads Network Agency

During its submission, SANRAL stated that its mandate initially covered the core and secondary strategic networks, totalling approximately 19,000 kilometers. Post-2010, this mandate expanded to include the Primary Road Network. While the strategic (red) and primary (yellow) networks remain under Provincial Government jurisdiction; however, it was submitted that SANRAL may assume control pending Ministerial declaration and concurrence from relevant Provincial Premiers.

Road transfers fall within the purview of Section 40 of the SANRAL Act 7 of 1998. This grants the Minister authority to declare existing roads as national, subject to SANRAL's recommendation and Provincial Premier agreement. In the Eastern Cape Province, SANRAL stated that sections of the Strategic and Primary Road networks designated for its jurisdiction have been successfully transferred, totalling 3290 km. These transfers occurred seamlessly without provincial budget allocations, enabling SANRAL to promptly address maintenance backlogs post-transfer.

SANRAL further submitted that certain systems such as the Asset Management System (AMS) form an important part of improving overall performance of the road network within budgetary constraints and effectively managing maintenance activities. This system relies on detailed data obtained through surveys conducted using automated acquisition systems, enabling informed decision-making. In particular, SANRAL spotlighted the SANRAL Traffic Speed Deflectometer (TSD), a cutting-edge survey vehicle equipped with advanced technology for thorough road assessment. Integrated with multiple instruments, the TSD gathers condition data for over 400 lane kilometers per day under favourable traffic and weather conditions, thereby facilitating well-informed maintenance strategies based on accurate data analysis.

In 2010, SANRAL managed 2520 km of roads in the Eastern Cape, a figure that surged to 5144 km in 2022 following road transfers—an increase of 104%. The incorporation of the remainder of the strategic and primary network road in 2013, initially in poorer condition, led to an overall decline in SANRAL's road network condition. The percentage of roads in poor to very poor condition increased from 6.75% in 2010 to 14.12% in 2015. SANRAL's preventative maintenance strategy successfully addressed maintenance backlog on roads transferred in 2013, reducing the poor to very poor condition to 4.66% by 2017. However, the inclusion of additional roads in 2016, also in suboptimal condition, led to a subsequent decline. The percentage of roads in poor to very poor condition rose from 4.66% in 2017 to 10.33% in 2022.

Accordingly, the data was said to affirm that SANRAL's preventative asset management strategy effectively managed the road network under its jurisdiction, even after the transfer of 3290 km of roads in deteriorated conditions. Further highlighting that the design and implementation of road projects entail navigating various regulatory

processes. These processes, including environmental authorisation, SPLUMA procedures, tribal land acquisition, and borrow/quarry approvals, present challenges that impact project timelines. The delays in obtaining these approvals were exacerbated by the disruptions caused by the COVID-19 pandemic and that the delivery of road maintenance and improvement projects is significantly influenced by external regulatory processes beyond its control. Therefore, regulatory approvals are said to play a crucial role in the progression of projects, and any delays in these approvals can hinder the timely execution of maintenance and improvement initiatives.

### 5.3.7. Transnet

In its submissions, Transnet highlighted the adverse consequences of deficient road infrastructure, citing congestion, prolonged transit times, and heightened fuel consumption. These directly impact Transnet's operations and pose broader environmental concerns by contributing to increased emissions and energy usage. An illustrative example is the coal transportation corridor in Mpumalanga, where both rail and road networks are heavily relied upon to transport coal to the Richards Bay coal terminal.

Transnet stressed the significance of road infrastructure within the broader transportation network, recognising its vital role in influencing economic development in South Africa. Favourable road conditions facilitate efficient transportation of goods and services, resulting in cost reduction and improved market accessibility. Conversely, poor road conditions hinder economic activities, escalate transportation costs, and create barriers to trade and investment. Transnet emphasised a direct correlation between investment in road infrastructure and job creation, particularly in construction and maintenance sectors.

Given the critical role of road infrastructure in economic development, Transnet emphasised the imperative of strategic planning for improvements. This includes not only upgrading existing roads but also expanding the network to underserved areas to enhance connectivity and foster inclusive economic growth. Integration of technology, such as intelligent transport systems, into road infrastructure can enhance traffic management and safety, contributing to sustainable and efficient transport networks.<sup>3</sup> Transnet argued that substandard road conditions directly impede its ability to fulfil mandated responsibilities, leading to operational challenges compromising efficiency, safety, and reliability. Such conditions disrupt cargo movement to and from ports and railway stations, necessitating additional resources to manage transportation delays. Moreover, poor road conditions heighten the risk of accidents and cargo integrity compromise, increasing the likelihood of financial loss and impacting the overall reliability of the transport network.

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<sup>3</sup> A prime example of road infrastructure's impact on economic growth, it was submitted, is evident in the development of the N3 Corridor between Durban and Johannesburg, one of the busiest freight corridors. Recent upgrades to the N3, including widening sections and improving road surfaces, have significantly reduced travel times and transport costs, positively impacting the logistics and supply chains of businesses in these regions, enhancing operational efficiency and competitiveness. This highlights the role of well-planned road infrastructure projects in driving economic growth and emphasises the importance of continued investment in road improvements for South Africa's economic future.

## 6. RESPONDENTS

### 6.1. Eastern Cape Treasury

During Treasury's presentation, it was highlighted that the Eastern Cape Province, spanning 168,966 km<sup>2</sup> and housing a population of 7.2 million residents, ranks as South Africa's second-largest province. The province comprises six district municipalities and two metros, with prominent population centres including OR Tambo, Nelson Mandela Bay, and Buffalo City. Economically, the province boasts a diverse landscape, with sectors like business services, wholesale and retail, tourism, manufacturing, and agriculture driving its economy. Emerging sectors such as renewable energies, particularly wind and solar, are shaping its evolving economic profile. However, historical structural issues have hampered economic growth rates, resulting in an official unemployment rate of 38.8%.

Despite efforts to rectify historical disparities, it was submitted that the province still contends with infrastructure backlogs, particularly in rural areas, stemming from the legacy of separate development policies. Spatial disparities persist in infrastructure distribution, with some regions enjoying well-developed infrastructure while others lack essential amenities. It was further emphasised that the growth of these infrastructure backlogs is influenced by various factors, including the absence of targeted strategic social and economic infrastructure programs at the national level. Additionally, the government's funding formula, which is linked to population numbers, has led to financial losses due to a declining population resulting from historical disproportionate development.

Furthermore, Treasury stated that existing imbalances create a scenario where certain areas, especially on the western side of the province, benefit from well-developed infrastructure meeting efficient service delivery standards. Conversely, the eastern side faces challenges such as the absence of inadequacy of essential infrastructure. This skewed distribution significantly impedes the province's ability to meet nationally set norms and standards for service delivery across different sectors. The ongoing growth of these infrastructure backlogs, influenced by multiple factors, underscores the necessity for targeted interventions and a reassessment of funding formulas to effectively address historical disparities and foster socio-economic development.

In terms of the jurisdiction the road network falls under the jurisdiction of three distinct authorities, each with a designated responsibility: the SANRAL overseeing national roads, the ECDOT managing provincial roads, and various municipal entities, including Buffalo City and Nelson Mandela Bay Metropolitan Municipalities, along with thirty-one Local Municipalities, responsible for municipal roads. The Eastern Cape, alongside the Free State province, shoulders a significant portion of the country's provincial road network

due to its expansive geography and population density. The Roads Asset Management Plan (RAMP) outlines that the Eastern Cape Province boasts a total road network of approximately ±78,000 km. This comprises roughly ±42,000 km managed by the provincial Department of Transport, 5,210 km by SANRAL, and 31,144 km under municipal administration. The provincial department is also tasked with the maintenance of ±1,019 bridges and 1,505 major culverts on provincial roads. The RAMP data also shed light on challenges faced, revealing an average gravel thickness for Provincial Gravel Roads at 38.312 mm, deemed insufficient compared to the 50 mm norm or standard. This shortage impedes blading interventions for a majority of provincial roads. Additionally, the province grapples with a backlog of major culverts and bridges, necessitating replacement due to undersising and safety concerns.

However, it was submitted that there is a stark reality – as already stated, only 9.8% or 3,958.88 km of the road network is paved, significantly below the national average of 25%. The majority, a staggering 90.2% or 36,642.17 km, consists of unpaved roads. Despite more than three million vehicle-kilometres traversing the paved road network daily, the conditions are challenging, exacerbated by the overwhelming reliance on road infrastructure for passenger and freight logistics. The absence of a diverse mix of logistics infrastructure, including rail, ports, and air transport, further strains the aging road network.

For insurance the Visual Condition Assessment Data from 2017/18 indicated a Network Condition Number of 48.0 for the total flexible (tar) road network, signifying a poor condition. The unpaved road network's current condition number stands at 29.44%, characterised as very poor. Specific areas, notably Nelson Mandela Bay Metropolitan Municipality, Chris Hani District, and Sarah Baartman District, exhibit particularly challenging conditions, with a significant percentage of gravel, earth, and track roads falling into the poor to very poor category.

The submission revealed that the Eastern Cape province prepared a consolidated costing of infrastructure backlogs, submitting it to the Financial and Fiscal Commission (FFC) in alignment with resolutions from a Portfolio Committee meeting. The previous funding model with a backlog component, advantageous to rural provinces for addressing road backlogs, was replaced in 2005. The Eastern Cape Province quantified its infrastructure backlog at R151.1 billion in 2016 yet has not received a response from the FFC and National Treasury (NT). Consequently, the province has been unable to address these backlogs due to changes in the government funding formula and despite there being various mechanisms in places such as the Municipal Infrastructure Grant (MIG) that are intended to provide capital finance for eradicating basic municipal infrastructure backlogs. It was further stated there is a need to prioritise MIG funds for infrastructure benefiting poor households, microenterprises, and social institutions. For local municipalities investing in roads infrastructure, the utilisation of data from the Rural Road Asset Management System (RRAMS), as referenced above, has the potential to be effective in



project planning and prioritisation.

Additionally, other mechanisms include the Provincial Roads Maintenance Grant (PRMG) which is argued that it significantly outweighs the Equitable Share in infrastructure allocations to the ECDOT. The Eastern Cape, like most provinces, heavily relies on the PRMG, necessitating a substantial increase in own revenue or alternative funding sources to address backlogs effectively. Examining budget allocations for the Department of Transport (DoT), reliance on the Provincial Roads Maintenance Grant (PRMG) is portrayed as a strategic decision, comprising 83% of infrastructure allocations in the 2023/24 financial year. Active participation in the Budget Facility for Infrastructure (BFI) highlights a commitment to diversifying funding sources.

The state of the road network within the province was portrayed as concerning, with both paved and unpaved roads experiencing deterioration that demands immediate attention. This degradation is partly attributed to the prevalence of road transportation in both freight and passenger sectors across South Africa, which adversely affects the efficiency and overall quality of the transportation system. Notably, a significant portion of tonne-kilometres, especially in freight transport, was said to occur on roads, placing strain on the network and exacerbating its deterioration. Consequently, there is an urgent requirement for sufficient capacity within the department and among external contractors to efficiently execute projects and address the existing backlog.

It was further argued that there are key challenges in allocating funds, including the extensive backlog and high implementation costs. However, Treasury outlined various steps that would assist in overcoming these challenges. These steps include reviewing the conditional grant system, stringent project approval criteria, participation in the Budget Facility for Infrastructure, and adherence to Infrastructure Delivery and Management System (IDMS) processes.

Further strategies proposed include integrating District Development Model (DDM) requirements into the Infrastructure Delivery Management System (IDMS). This integration aims to streamline infrastructure planning across all project stages, enhancing overall efficiency. Emphasis is placed on disaster preparedness, with a minimum allocation of 2% of the total infrastructure budget for immediate response. Climate change considerations are embedded in the planning process, reflecting a nuanced understanding of environmental concerns. Aligning long-term planning with the Road Infrastructure Strategic Framework for South Africa (RISFSA) underscores a forward-looking approach. The decision to transfer strategic routes to the South African National Roads Agency Limited (SANRAL) recognises the importance of efficient maintenance, albeit with careful consideration of potential revenue loss for the province.

Moreover, robust monitoring mechanisms have been proposed, characterised by a well-coordinated and proactive approach. Monthly analyses of Departmental Infrastructure

Reporting Models (IRMs) ensure timely detection of potential issues. The establishment of technical streams and institutional structures for coordination and escalation signifies a comprehensive grasp of the significance of oversight in infrastructure projects.

## **6.2. The Eastern Cape Department of Transport**

According to the ECDOT, the challenges confronting the Eastern Cape's Road infrastructure can be traced back to pre-1994 policies that resulted in limited investments in certain regions, particularly those amalgamated with the Cape Province Administration. It is argued that this historical context led to a disproportionate distribution of road types in the province, with gravel roads comprising 90% of the network and only 10% being tar roads.

In analysing the transport infrastructure, the ECDOT noted that provincial roads constitute a substantial portion of the road network in the Eastern Cape totalling 42,000 kilometers. However, there's a challenge in the perception of the network, as communities often do not differentiate between provincial and municipal roads.

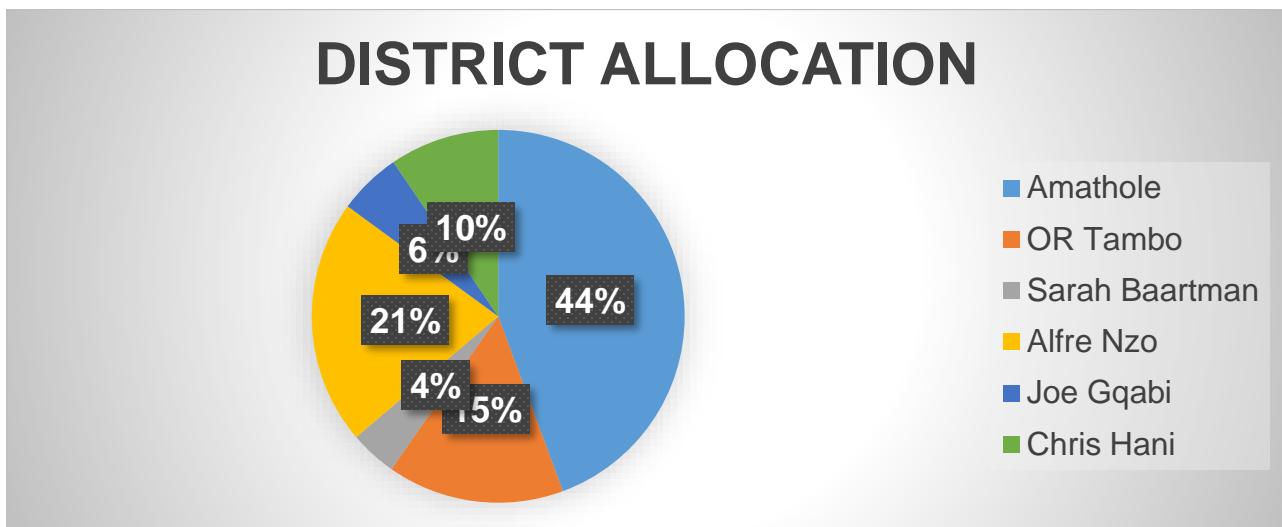
Approximately 10% of Eastern Cape roads are surfaced, compared to a national average of 25%. It was submitted that this discrepancy is indicative of under-investments in the province over an extended period.

The ECDOT confirmed that a contributing factor to the current road conditions is the maintenance backlog. In terms of the backlog, the ECDOT indicates that addressing the capital backlog would require an estimated amount of R30.5 billion. This includes gravel roads with high traffic, medium traffic, certain undersized bridges, and a significant number of gravel roads with poor drainage. The majority of unpaved roads require re-gravelling as a primary intervention, with an estimated replacement value of R 17.2 billion. Conversely, paved roads further need a comprehensive reseal/patch rehabilitation program to preserve their assets, estimated at a value of R 48 billion. In the visual assessment conducted in 2016/2017 the trend analysis of paved roads indicated a decline in the condition of the flexible tar road network. Approximately 2400 kilometers of paved roads were identified as requiring maintenance beyond routine upkeep. However, due to underfunding, the ECDOT submitted that the backlog will remain unresolved. The annual budget allocated is approximately +/- R700 million, which allows the department to address about 42 kilometers per annum. With a performance target of 18 million per kilometer, the implementation plan will span over a 25-year period.

In comparison to other regions, it was stated that there is historical disparity between the Eastern Cape and other provinces. While provinces like KwaZulu-Natal benefit from more diverse revenue-generation mechanisms, due to revenue-generating projects like airports and toll gates, the EC province is said to be entirely dependent on the grant for road maintenance, with no contributions from voted funds or equitable share.

The ECDOT confirmed that the condition of the road network is a concern, with a significant portion in poor condition<sup>4</sup>, with no roads rated as "very good" since 1996. The replacement value for surfaced roads is estimated at R 48 billion, while unpaved roads would cost approximately R 17.2 billion to replace. These figures highlight the importance of preserving existing infrastructure to avoid significant losses. ECDOT further submitted that the demand for new assets, particularly surfacing gravel roads, is evident, with thousands of kilometers requiring attention. The challenge lies in funding availability, with only a fraction of the required kilometers being addressed due to financial constraints, further stating that backlogs in maintenance and upgrades amount to billions of rands, far exceeding the annual budget allocation for road infrastructure. Despite efforts to eliminate backlogs, progress is said to have been slow.

The allocation by district differs, with Amathole District accounting for 44% of the backlog, followed by Alfred Nzo with 21% and OR Tambo with 17%, as shown in the chart below:



Source: Eastern Cape Department of Transport

With an estimated annual average allocation of R 750 000 for upgrades, the ECDOT argues that the funds allocated could allow the department to afford only 42 km per annum from an application of a limit rate of R 18 million per kilometer. This would, as stated above, be realised in a 25-year period, meaning that if the department started in 2020, the backlog would be eliminated by 2045. With regards to routine maintenance, the ECDOT submitted that for gravel roads, the standards require blading three times a year, reshaping, and patching graveling. This incurs costs, and for periodic graveling, totalling about 500,000 per kilometer, with an average of R 1.9 billion needed annually for routine and periodic maintenance, compared to the 900 million grant.

In eliminating the backlog, the ECDOT submitted that it will follow a four-category plan.

<sup>4</sup> The data relied for the presentation was based on a study completed in 2017. The reasons advancement for not using current data is that data collection projects have suffered some delay due to litigation around data collection projects.

The categories include, Category A, which is currently being implemented. Category B for projects with completed designs but lacking funding for implementation. Category C being projects with completed designs and Category D being projects that were implemented but left unfinished. Some of the adopted strategies also include the development of In-House Construction Units (IHC), which have been in decline in terms of resources and production. This is attributable to a number of reasons including reduction in budget allocations, loss of key personnel, poor plan availability and procurement issues. In trying to address the declining IHC units, ECDOT states that it was proposed that each district has 2 roving re-gravelling units and revival of a centre of excellence.

Additionally, the industry norms dictate road reconstruction every 25 years, rehabilitation every 15 years, and various other maintenance tasks periodically. Most of these roads, based on a list compiled in 2017 have exceeded their lifespan. As such the ECDOT aims to align maintenance efforts with PRMG incentives and increase focus on in-house maintenance activities. Overall, the focus is on maintaining existing infrastructure before expanding and building new ones. Further noting that the funding and project selection are based on traffic volume, project type, route class, strategic importance, social factors, and population. Strategies such as transferring strategic roads to SANRAL have also been explored in the past. The transfer process is initiated for different reasons such as revenue generation and backlog reduction.

Other critical areas impacted by poor road infrastructure include the scholar transport system. Addressing this issue, the ECDOT highlighted a misalignment between the education sector's focus on quality and the treasury's budget allocations, which are based on baseline rather than actual student numbers. This mismatch creates budget shortfalls, particularly noticeable when comparing student figures reported in October-November to those in January, complicating accurate transport budget planning. Despite ongoing collaboration with treasury to address these deficits, policy gaps remain—especially concerning the allocation of scholar transport budgets between the education and transport departments. The high dropout rate in South Africa further complicates planning, as learner numbers used for budgeting at the year's end often become inaccurate by January.

When ECDOT assumed responsibility for scholar transport, the budget was approximately R400 million, intended to support 66 million learners. Although the budget has since increased to about R740 million, it now only accommodates 125,000 learners due to funding limitations, leaving approximately 30,000 students without transport despite growing demand. This underscores an urgent need for additional funding to meet student needs effectively. Other contributing issues include inefficiencies and corruption within the system. In response, ECDOT reported it is implementing an automated system to tackle these challenges. Investigations have uncovered operators benefiting unduly from the system, leading to contract terminations and legal actions

Despite facing financial challenges and expressing a lack of financial resources, the ECDOT highlighted that it has successfully undertaken several key projects over the past five years leading up to 2023. Among these projects, the department notably upgraded and completed various roads. Examples include the upgrading of the R61 from Magusheni to Mzamba, spanning 20 kilometers at a cost of R637 million. Additionally, significant investments were made in the road leading to the former residence of ANC president Oliver Tambo, amounting to R265 million. Furthermore, the department allocated R305 million for the upgrade of a 14-kilometrestretch of the DR08125 from the N2 highway to Siphethu Hospital.

The ECDOT confirmed an annual budget allocation of 2.5 billion, including the PRMG grant and an equitable share designated for construction and upgrades. Within this allocation, approximately R987 million is earmarked for construction projects, with R1.2 billion allocated for maintenance initiatives for the 2022/2023 financial year. The department further highlighted that its expenditure for this period reached an impressive 99.9%, indicating efficient utilisation of allocated resources. Comparatively, expenditure trends over recent years demonstrate consistent commitment to resource management. In the preceding financial year of 2021-2022, expenditure almost reached 100%, with a slight increase from 90% in 2020-2021 and 97.5% in 2019-2020.

Despite perceptions of limited visible progress, the ECDOT asserts that its proactive spending approach ensures minimal unused funds are returned to the province. While it may seem that the department's impact on the ground is limited, the ECDOT emphasizes that no funds allocated to it are returned unused. For municipalities, the ECDOT submitted that funds are allocated to help them develop rural road asset management systems, which are crucial for informed decision-making during emergencies. However, municipalities face challenges with maintenance due to limited revenue streams and other issues, such as the expansion of new settlements. Despite these obstacles, interventions are implemented. Currently, the ECDOT relies on provincial disaster management policies for emergency responses but recognizes the need for specific departmental guidelines to better address these situations.

Regarding quality control processes, the ECDOT reported using both internal and outsourced resources to conduct quality assurance for construction and maintenance projects. Infrastructure projects adhere to regulations set by the Construction Industry Development Board (CIDB), the South African Institute of Civil Engineers (SAICE), and the Engineering Council of South Africa (ECSA). The ECDOT asserted that these standards, along with additional legislative requirements, are rigorously followed. Moreover, several tailored manuals, such as the Standard E and TMH guides, have been developed to support compliance with these construction and maintenance standards

The ECDOT reported that it has sustained collaborations and partnerships across various

regions through service level agreements and memorandums of agreement with SANRAL, specifically for the construction of certain roads. These partnerships are strategically designed to address the complex challenges of road infrastructure management.

Despite these initiatives, the ECDOT highlighted a significant budget shortfall of approximately R300 million, which affects the department's ability to fund scholar transport and maintain access to essential services, including hospitals, schools, and tourism sites. The ECDOT noted that this gap could be bridged through the procurement of additional funds and strengthened collaboration among relevant stakeholders to ensure timely service delivery. To this end, the ECDOT confirmed that it is actively engaging with the treasury to find solutions. Additionally, the ECDOT pointed out a policy inconsistency, where scholar transport remains under the Department of Education in some provinces, leading to disparities in budget allocations and unequal funding increases across regions.

## **7. LEGAL FRAMEWORK**

- 7.1. The Bill of Rights stands as a bedrock of democracy within South Africa, serving as a sacred document that safeguards the rights of every individual in the Republic. It not only upholds the fundamental principles of human dignity, equality, and freedom but also mandates the state's obligation to honour, safeguard, advance, and fulfil these rights. Within its framework lie numerous rights pertinent to the systemic matter outlined herein, encapsulating:
  - 7.1.1. Section 7: (2) The state must respect, protect, promote and fulfil the rights in the Bill of Rights.
  - 7.1.2. Section 9: (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.  
(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
  - 7.1.3. Section 10: Everyone has inherent dignity and the right to have their dignity respected and protected.
  - 7.1.4. Section 11: Everyone has the right to life.
  - 7.1.5. Section 21(1): everyone has the right to freedom of movement.
  - 7.1.6. Section 22: everyone citizen has the right to their trade, occupation, or profession freely. The practice of a trade, occupation or profession may be regulated by law.

- 7.1.7. Section 27(1): everyone has the right to have access to –
- (a) Healthcare services, including reproductive health care
  - (b) Sufficient food and water; and
  - (c) Social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
- (2) the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
- 7.1.8. Section 28(1)(c): to basic nutrition, shelter, basic health care services and social services.
- (2) A child's best interests are of paramount importance in every matter concerning the child.
- 7.1.8. Section 29(1)(a): everyone has the right (a) to basic education, including adult basic education.
- 7.1.9. Section 139, which empowers and imposes a duty on provincial governments to intervene in local governance. This section stipulates: "When a municipality fails to fulfil an executive obligation as per the Constitution or legislation, the respective provincial executive may intervene by taking necessary measures to ensure compliance with that obligation, including-
- (a) issuing a directive to the Municipal Council, describing the extent of failure to fulfil its obligations and stating any steps required to meet its obligations;
  - (b) assuming responsibility for the relevant obligation in that municipality to the extent necessary to:
    - (i) maintain essential national standards or meet established minimum standards for the rendering of a service;
    - (ii) prevent that Municipal Council from taking unreasonable action that is prejudicial to the interests of another municipality or to the province as a whole;
    - (iii) maintain economic unity; or
  - (c) dissolving the Municipal Council and appointing an administrator until a newly elected Municipal Council has been declared elected if exceptional circumstances warrant such a step."
- 7.1.10. Furthermore, Section 152 of the Constitution outlines the objectives of local government, which include providing democratic and accountable governance, ensuring sustainable service provision to communities, fostering social and economic development, promoting a safe and healthy environment, and encouraging community participation in local governance matters.

7.1.11. While Section 153 provides that:

- (a) “A municipality must structure and manage its administration and budgeting and planning processes to give effect to the basic needs of the community, and to promote the social and economic development of the community.

7.1.12. Section 154 of the Constitution provides as follows:

- (1) The national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and perform their functions.

7.1.13. Additionally, section 195 of the Constitution provides the basic values and principles governing the public administration in every sphere of government, organs of state and public enterprises. This section stipulates that:

- (1) Public administrations must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:
  - (a) A high standard of professional ethics must be promoted and maintained.
  - (b) *Efficient, economic and effective use of resources must be promoted.*
  - (c) *Public administration must be development-oriented.*
  - (d) Services must be provided impartially, fairly, equitably, and without bias.
  - (e) People’s needs must be responded to, and the public must be encouraged to participate in policy-making.
  - (f) Public administration must be accountable.
  - (g) Transparency must be fostered by providing the public with timely, accessible and accurate information.
  - (h) Good human-resource management and career-development practices, to maximise human potential, must be cultivated.

## 8.2. DOMESTIC LEGISLATION AND POLICIES

8.2.1. The National Land Transport Act, 2009 (Act No.5 of 2009)

The purpose and scope of National Land Transport Act (NLTA) is –

To further the process of transformation and restructuring the national land transport system initiated by the Transition Act:

- (i) to give effect to national policy
- (ii) to prescribe national principles, requirements, guidelines, frameworks and provinces norms, and standards that must be applied uniformly in the provinces and other matters contemplated in section 146 (2) of the Constitution; and
- (iii) to consolidate land transport functions and locate them in appropriate sphere of government.



### 8.2.2. Eastern Cape Road Traffic, Act 3 Of 2003

The above Act serves as a secondary legislation to the Eastern Cape Department of Transport (ECDOT). Its main purpose is to consolidate laws related to provincial roads with the Eastern Cape province. The Act outlines provisions for various aspects, including planning, design, development, construction, management, maintenance, and rehabilitation of provincial roads. It covers matters concerning the effective administration and improvement of the road network in the region; however, based on the ECDOT's annual performance plan 2023-2026; the Act has been identified as one of the legislations scheduled for review.

### 8.2.3. National Developmental Plan – Vision 2030 (NDP)

8.2.3.1. The National Development Plan (NDP) of 2012 represents a comprehensive strategy aimed at cultivating a more equitable and prosperous South Africa. Fundamentally, the NDP endeavours to ignite inclusive economic growth, ensuring that the benefits of progress are accessible to all citizens. By addressing key domains such as transport, nutrition, housing, education, safety, healthcare, employment, recreation, and environmental sustainability, the plan strives to uplift living standards across the nation. Embracing a holistic approach, the NDP aims to mitigate poverty and inequality, thereby enhancing the quality of life for all South Africans.

8.2.3.2. Acknowledging the vital role of infrastructure, particularly transport infrastructure, the NDP highlights its importance in fortifying the economy, fostering increased employment, and reducing inequality and poverty. The NDP recognizes that robust transport infrastructure is essential for advancing its core objectives by enhancing social mobility, promoting integration, facilitating economic growth, and contributing to sustainability.

### 8.2.4. The Medium-Term Strategic Framework (MTSF 2019 – 2024)

Aligned with the National Development Plan (NDP), the national government has embraced the Medium-Term Strategic Framework (MTSF 2019 – 2024), aimed at offering strategic guidance to government initiatives during the five-year period from 2019 to 2024. Serving as the second phase of the country's long-term NDP, following the MTSF (2014-2019), the MTSF (2019-2024) serves as a pivotal building block in realising the vision and objectives outlined in the NDP.

### 8.2.5. The Provincial Development Plan 2019 – 2024

The Eastern Cape Government has formulated six provincial developmental goals for the 5-year strategic planning period to operationalise its strategic priority areas, aligning with

the National Development Plan (NDP) and the Medium-Term Strategic Framework (MTSF). These objectives collectively form the Provincial Development Plan (PDP) 2019 – 2024. The PDP goals encompass the cultivation of an innovative, inclusive, and expanding economy, the establishment of an enabling infrastructure network, the advancement of innovative and high-value agriculture and rural sectors, the promotion of human development, the assurance of environmental sustainability, and the fortification of capable democratic institutions.

#### 8.2.6. White Paper on National Transport Policy, 1996

The White Paper on National Transport Policy emphasises the fundamental role of transportation in advancing the country's social and economic development, serving as a vital mechanism for seamless interaction and as a driver for progress. It acknowledges the necessity for transport policies to be outward-looking, shaped by the broader needs of society, transportation users, and the economy. This policy framework not only guides the future actions of the Department of Transport but also provides direction for other transport institutions in formulating their strategies. Within this framework, six key areas are addressed, each presenting a vision, mission, objectives, and policy statements.

#### 8.2.7. National Land Transport Strategic Framework, 2007

The National Land Transport Strategic Framework (NLTSF) serves as a comprehensive five-year plan aimed at providing guidance for transport planning and the delivery of national land transport services across South Africa. It represents a significant step forward by facilitating the coordination of all levels of government in land transport, ensuring a more cohesive and effective approach to service delivery. The framework delineates strategies for the integrated planning of land transport across various government spheres and establishes priorities for land transport development.

#### 8.2.8. National Transport Master Plan (NATMAP) 2005 – 2050

The National Transport Master Plan (NATMAP), formulated by the National Department of Transport (DOT), underwent thorough investigation and consultation processes. NATMAP was conceived as a blueprint for the advancement of a cutting-edge, multi-modal transport system in South Africa. The Plan is designed to tackle the planning, implementation, maintenance, operation, investment, and monitoring of transport policy and investment over incremental five-year periods from 2005 to 2050. Throughout the development of NATMAP, the DOT has pinpointed economic, capacity, and infrastructure challenges hindering the establishment of an integrated and efficient transport system in South Africa.

### **8.3. CASE LAW**

### 8.3.1. *AgriEC v Department of Roads & Public Works*<sup>5</sup>

This case is about the poor condition, lack of maintenance and repair of the road network of the farming communities in the Eastern Cape. In need for a plan of action to remedy the situation, the applicants were seeking an order, inter alia, declaring the respondents to be legally obliged to repair all roads within their jurisdiction and seeking compensation from the respondents by certain of the applicants for payment of amounts they had spent in repairing roads themselves.

At para 33 the court held that:

*“In my view there was a constitutional and statutory basis for seeking the interdict. Part A of Schedule 5 of the Constitution provides for the functional areas of exclusive provincial legislative competence, one of which is provincial roads and traffic. In terms of s 125 (2) (a) of the Constitution, the Premier, together with the other members of the Executive Council, exercises executive authority by implementing provincial legislation in the province. When one considers some of the consequences of the failure to repair and maintain roads illustrated in the applicants’ affidavits, fundamental rights such as basic education and access to health care are indirectly affected.”*

### 8.3.2. *Government of the Republic of South Africa and others v Grootboom and others*<sup>6</sup>

The court ruled that socio-economic rights are directly enforceable by the judiciary. The state must provide those that are unable to support themselves and their dependents with access to housing, health care, adequate food and water, and social security. In this case the court developed a standard for review for assessing compliance with constitutional obligations in the state’s social and economic rights. The much-criticised standard of scrutiny the reasonableness test, allows for assessment of the reasonableness of the measures taken by the government to realise social and economic rights within its available resources. The court found that:

*“[i]t is fundamental to an evaluation of the reasonableness of state action that account to be taken of the inherent dignity of human beings. The Constitution will be worth infinitely less than its paper if the reasonableness of state action concerned with housing is determined without regard to the fundamental constitutional value of human dignity”.*

In addition, the Court found that:

*[a] court considering reasonableness will not require whether other more desirable or favourable measures could have been adopted, or whether public money could have been better spent. The question would be whether the measures that have been adopted*

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<sup>5</sup> 2017 (2) All SA 406 (ECG)

<sup>6</sup> 2000 (11) BCLR 1169 (CC)

*are reasonable. It is necessary to recognise that a wide range of possible measures could be adopted by the State to meet its obligations. Many of these would meet the requirement of reasonableness. Once it is shown that the measures do so, this requirement is met”.*

### *8.3.3. Rail Commuters Action Group v Transnet Ltd t/a Metrorail and Others<sup>7</sup>*

This case involved the responsibilities of Metrorail, a state organ, in ensuring the safety of its passengers. The applicants, representing rail commuters, sought to hold Metrorail accountable for failing to provide adequate protection against crime on its trains and in its stations. The Constitutional Court considered the nature and scope of the obligations resting on state organs under the Constitution, specifically the duty to take reasonable measures to protect individuals' rights.

The Court emphasised that what constitutes "reasonable measures" depends on the circumstances of each case. Several factors must be considered, including the nature of the duty, the social and economic context in which it arises, and how closely the duty is related to the core activities of the duty-bearer. The closer the duty is to the core activities, the greater the obligation on the duty-bearer. Furthermore, the Court highlighted the importance of the extent of any threat to fundamental rights. The more serious the threat to these rights, the greater the responsibility on the state to act.

The Court also acknowledged that resource constraints—whether human or financial—might impact the ability of the state to meet its obligations. However, it made clear that an organ of state cannot simply claim resource constraints without providing detailed evidence of the specific nature of these constraints. Such assertions must be supported by information on how these constraints affect the organ of state's overall capacity to fulfil its duties. This requirement aligns with the constitutional principles of accountability and effectiveness, ensuring that state decision-makers are transparent about their reasons for actions (or inactions) and that they take appropriate measures in the context of their responsibilities.

This judgment highlights the necessity for state organs to balance their duties against the resources available to them while ensuring that they do not compromise on protecting fundamental rights, particularly when those rights are at serious risk.

### *8.3.4. McIntosh v Premier, KwaZulu-Natal and Another<sup>8</sup>*

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<sup>7</sup> 2005 (2) SA 359 (CC).

<sup>8</sup> 2008 (6) SA 1 (SCA).

This case involved the appellant, a cyclist, who sustained serious bodily injuries after falling from his bicycle while swerving to avoid a large pothole on a road under the management and control of the respondents. The appellant sued the respondents for damages, alleging negligence for failing to ensure that potholes were timeously repaired or that signs were erected warning road users of the danger. The respondents denied negligence, citing resource constraints and the establishment of a system of weekly routine inspections for road maintenance.

At para 14, the court held that:

"Generally speaking, the answer to the inquiry [of negligence] depends on a consideration of all the relevant circumstances and involves a value judgment which is to be made by balancing various competing considerations, including such factors as the degree or extent of the risk created by the actor's conduct, the gravity of the possible consequences and the burden of eliminating the risk of harm."

Further, the court emphasised that:

"Where, however, a public authority is involved, a further consideration arises... a court will not lightly find a public authority to have failed to act reasonably because it elected to prioritise one demand on its possibly limited resources above another."

The court found that the pothole in question had been in existence for a significant period and that its failure to repair it constituted negligence, notwithstanding the respondents' resource constraints. The court ultimately held that the respondents were liable for 60% of the appellant's damages.

It is important to note the court's acknowledgment that while government bodies may face resource constraints, they are still obligated to take reasonable steps to maintain public infrastructure and prevent foreseeable harm.

## **9. FACTUAL ANALYSIS**

### **9.1. THE REALITY**

9.1.1. South Africa's Road network is approximately 750 000 km in length and is said to be the tenth longest road network of any nation.

9.1.2. The Eastern Cape boasts a vast provincial road network totalling approximately 40,153 kilometers, making it one of the largest in South Africa. However, the

composition of this network presents a stark picture of the region's infrastructure woes.

- 9.1.3. Out of this total, only 3,808 kilometers are paved, representing a mere 9.5% of the provincial road network. In contrast, a staggering 36,345 kilometers, or 90.5%, of the roads remain unpaved. This disparity in road surfacing is a significant concern, particularly in a province where the road network is critical for accessing remote rural areas and delivering essential services.
- 9.1.4. The data further reveals that the Eastern Cape's road infrastructure is severely underfunded.
- 9.1.5. The Provincial Roads Maintenance Grant (PRMG), intended to supplement the funding for road construction and maintenance, is allocated approximately R750 million annually for road upgrades across the province.
- 9.1.6. Given that the average cost of upgrading a single kilometre of road (to a new, high traffic road) is around R18 million, this budget allows the province to upgrade only 42 kilometers of roads per year. This is a minuscule fraction of the total network and highlights the enormity of the maintenance backlog that the province faces.
- 9.1.7. The Eastern Cape Department of Transport (ECDOT) has indicated that the total capital backlog required to bring the province's road network up to an acceptable standard is estimated at R30.5 billion.
- 9.1.8. This backlog includes the re-gravelling of unpaved roads, extensive maintenance of existing paved roads, and the upgrading of undersized bridges that are critical for ensuring safe and reliable transportation routes. The replacement value of the province's surfaced roads alone is estimated at R48 billion, while unpaved roads would cost approximately R17.2 billion to replace.
- 9.1.9. These figures underscore the magnitude of the challenge faced by the province in addressing its road infrastructure needs.
- 9.1.10. The condition of the road network is further deteriorated by the high vehicle traffic volumes in certain areas. For instance, the province experiences over three million vehicle-kilometres on its paved road network daily, exacerbating wear and tear. This situation is made worse by the fact that the province lacks a diverse mix of logistics infrastructure, such as rail and air transport, placing even greater strain on the road network.

- 9.1.11 . The visual condition assessment data from 2017/18 indicates that the Network Condition Number for the total flexible (tar) road network is a poor 48.0, while the unpaved road network's condition number stands at an alarming 29.44%, categorised as very poor.
- 9.1.12 . Moreover, the Eastern Cape's road infrastructure suffers from inadequate gravel thickness, with the average thickness for provincial gravel roads measured at 38.312 mm—well below the 50 mm norm.
- 9.1.13 . This deficiency severely limits the effectiveness of blading interventions, which are essential for maintaining gravel roads.
- 9.1.14 . To add to this, the province grapples with a backlog of major culverts and bridges that require urgent replacement due to undersizing and safety concerns. These infrastructural deficits significantly impact the province's ability to maintain a road network that is safe and accessible for all its residents.
- 9.1.15 . Funding for road infrastructure in the Eastern Cape is further complicated by the province's reliance on the PRMG, which accounts for 83% of the infrastructure allocations to the ECDOT for the 2023/24 financial year.
- 9.1.16 . This reliance underscores the limited financial flexibility the province has in addressing its infrastructure needs.
- 9.1.17 . Despite an annual budget allocation of approximately R2.5 billion, which includes the PRMG and an equitable share designated for construction and upgrades, the province remains significantly under-resourced.
- 9.1.18 . The ECDOT's expenditure trends indicate a near-complete utilisation of allocated resources, with a 99.9% expenditure rate for the 2022/2023 financial year. However, this efficient use of funds does not translate into significant improvements on the ground, as the province's infrastructure backlog continues to grow.
- 9.1.19 . The data also reflects a significant disparity in infrastructure development across the province's districts. For example, the Amathole District accounts for 44% of the provincial backlog, followed by Alfred Nzo with 21%, and OR Tambo with 17%. This uneven distribution of resources further complicates the province's efforts to provide equitable access to road infrastructure across its vast and diverse landscape.

9.1.20. It is therefore clear from the Inquiry and submissions received by the Commission, that the road infrastructure in the Eastern Cape is marred by extensive challenges, including a massive maintenance backlog, inadequate funding, and significant disparities in road conditions across different regions. The province's reliance on limited financial resources, combined with the vast scale of its road network, presents a formidable challenge in ensuring that all residents have access to safe and reliable roads. The data clearly illustrates the magnitude of the task at hand and underscores the urgent need for targeted interventions to address the province's infrastructure crisis.

## 9.2. **GOVERNANCE**

9.2.1. The governance and legal framework for road infrastructure in the Eastern Cape is primarily derived from the Constitution and several key pieces of legislation that delineate the responsibilities of various stakeholders.

9.2.2. The Constitution of South Africa is the foundation of this framework, mandating the state to ensure the realisation of fundamental rights, including access to essential services such as healthcare, education, and the right to freedom of movement. These rights are intertwined with the quality and availability of road infrastructure, particularly in rural areas where access to services is heavily dependent on the road network.

9.2.3. Section 7 of the Constitution obligates the state to respect, protect, promote, and fulfil the rights in the Bill of Rights, which includes ensuring that all citizens have the necessary infrastructure to exercise these rights. This constitutional mandate is further elaborated in specific legislation such as the National Roads Act, which assigns the responsibility for national roads to the South African National Roads Agency Limited (SANRAL). SANRAL's role is to manage and maintain the national road network, ensuring that it meets the required standards to support economic activities and access to essential services. The agency is also empowered under the SANRAL Act to assume control over provincial roads, subject to Ministerial declaration and agreement from the relevant Provincial Premiers.

9.2.4. The Municipal Structures Act (MSA) and the Division of Revenue Act (DORA) further define the responsibilities at the local level. The MSA mandates that local municipalities are responsible for the provision and maintenance of municipal roads, ensuring that these roads are safe and accessible for all residents. This includes the development and implementation of road maintenance plans, prioritisation of critical infrastructure, and effective use of allocated funds. The



DORA provides the financial framework for these responsibilities, outlining the allocation of funds from the national government to provinces and municipalities, including the Provincial Roads Maintenance Grant (PRMG). The PRMG is specifically designed to supplement the funding for road construction and maintenance, particularly in rural and underdeveloped areas.

- 9.2.5. The Eastern Cape Department of Transport (ECDOT) is tasked with the maintenance and development of provincial roads, which constitute a substantial portion of the road network in the province. The Department's responsibilities include the development of strategic plans to ensure the efficient use of resources, the prioritisation of critical road infrastructure projects, and the implementation of maintenance programs to preserve the road network. The Department is also responsible for aligning its activities with national strategies, such as the Road Infrastructure Strategic Framework for South Africa (RISFSA), which guides the overall planning and investment in road infrastructure across the country.
- 9.2.6. In addition to these legislative mandates, the governance of road infrastructure also involves compliance with various regulations and standards set by professional bodies. The Construction Industry Development Board (CIDB), the South African Institute of Civil Engineers (SAICE), and the Engineering Council of South Africa (ECSA) all provide guidelines and standards for road construction and maintenance. These regulations ensure that the quality of the infrastructure meets the necessary safety and operational standards, and they play a crucial role in the oversight of road projects, from planning through to execution.
- 9.2.7. The role of the Provincial Treasury is also significant in this governance framework. Treasury is responsible for the allocation of financial resources within the province, ensuring that sufficient funds are directed toward road infrastructure projects. This includes overseeing the budgetary processes, ensuring compliance with financial regulations, and facilitating the efficient use of funds allocated through grants such as the PRMG.
- 9.2.8. In terms of planning, the Integrated Development Plans (IDPs) at the municipal level are crucial for aligning road infrastructure projects with broader developmental goals. These plans are developed in consultation with local communities and other stakeholders, ensuring that the road infrastructure supports socio-economic development and enhances access to essential services.
- 9.2.9. While the governance framework and legal mandates for road infrastructure in the Eastern Cape are well-established, the performance of key stakeholders in fulfilling these responsibilities reveals significant shortcomings.

9.2.10 . The Eastern Cape Department of Transport (ECDOT), despite being legally mandated to maintain and develop provincial roads, has been criticised for its inadequate execution of these duties. Submissions from various stakeholders highlight a pervasive failure to meet the standards set by the relevant laws and policies.

9.2.11 . One of the critical failures is the ECDOT's inability to effectively address the maintenance backlog of provincial roads. According to the submissions, the Department has not managed to align its operations with the Provincial Roads Maintenance Grant (PRMG) requirements.

9.2.12 . The PRMG is intended to support the repair and maintenance of road infrastructure, particularly in rural areas. However, the Department's focus has been largely on paved roads due to their higher asset value, neglecting the extensive network of unpaved roads, which constitute approximately 90% of the province's road network. This neglect directly contravenes the mandate outlined in the PRMG and the broader expectations set by the Division of Revenue Act (DORA), which calls for equitable maintenance across all types of road infrastructure to ensure public safety and accessibility.

9.2.13 . Further, the Auditor General's findings on the ECDOT reveal repeated instances of financial mismanagement, including fruitless and wasteful expenditure related to road projects. For instance, overpayments for road construction materials and incomplete projects were highlighted as significant issues. These failures in financial stewardship indicate a breach of the standards expected under the Public Finance Management Act (PFMA), which governs the use of public funds. The ECDOT's financial practices, as outlined by the Auditor General, undermine the efficiency and effectiveness of road maintenance programs, leading to deteriorating road conditions and delayed project completions.

9.2.14 . Local municipalities, tasked with the maintenance of municipal roads, have also struggled to fulfil their obligations.

9.2.15 . Submissions from various districts, such as the Amathole District Municipality, indicate that despite the existence of Road Asset Management Systems (RAMS), many municipalities lack the capacity and resources to implement these systems effectively. The failure to utilise RAMS as intended leads to poor prioritisation of road maintenance projects, resulting in further degradation of road conditions.

9.2.16 . This failure to act in accordance with the Municipal Structures Act (MSA) and the Municipal Finance Management Act (MFMA) suggests a gap between legislative requirements and actual performance.

9.2.17 . SANRAL, responsible for the management of national roads and some provincial roads transferred under its jurisdiction, has performed somewhat better in maintaining the roads under its control. However, the submissions point out that SANRAL's effectiveness is often hampered by delays in obtaining necessary regulatory approvals.

9.2.18 . While SANRAL has successfully reduced the maintenance backlog for roads under its control, the broader systemic issues related to coordination with provincial and local authorities remain a challenge.

9.2.19 . This situation points to inefficiencies in the application of the National Roads Act and the SANRAL Act, particularly in ensuring timely execution of road projects that require multi-agency collaboration.

9.2.20 . While the legal framework provides a clear mandate for the management and maintenance of road infrastructure in the Eastern Cape, the actual performance of key stakeholders falls short of these expectations. The ECDOT, municipalities, and other involved entities frequently fail to meet their legal obligations, resulting in deteriorating road conditions and inadequate service delivery. These failures highlight the need for improved accountability and better alignment of actions with the legal and policy frameworks that govern road infrastructure in the province.

### 9.3. **IMPACT ON KEY ECONOMIC SECTORS**

9.3.1. The inquiry has very clearly illustrated that the lack of adequate road infrastructure in the Eastern Cape has had a profound economic impact on several key sectors, severely limiting the potential for growth and development in the region.

9.3.2. The submissions made during the inquiry provide clear evidence of how poor road conditions are stifling economic activities across various industries, including tourism, agriculture, transportation, and small-scale enterprises. Each of these sectors has been directly affected by the deteriorating state of the road network, leading to significant economic losses and reduced opportunities for businesses and communities.

## ***Tourism Sector***

- 9.3.3. The Amathole Tourism Association (AMETA) highlighted the severe challenges faced by the tourism industry due to the poor condition of roads in the region. AMETA emphasised that roads in areas like Hogsback, which are crucial for tourism activities, are in such poor condition that they are only navigable by larger vehicles such as four-wheel drives, especially during adverse weather conditions. The R345 route, a primary access route to Hogsback, was specifically mentioned as being in such a deteriorated state that it is deemed unsuitable for standard vehicles. The submission also noted that this route is vital not only for tourism but also for timber extraction and agriculture, further compounding the economic impact of its poor condition.
- 9.3.4. The association reported that due to the state of the roads, many tourist destinations in the Amathole region, such as Hobbiton and Seymor, become completely inaccessible during inclement weather. This has led to a significant decline in tourism, with AMETA noting a 30% reduction in demand for accommodations in the area during the fiscal year, attributed primarily to the conflicts with the forestry industry and the adverse effects of heavy truck traffic on the roads.
- 9.3.5. This decline is particularly alarming given that tourism had previously seen exponential growth, with bed nights in Hogsback increasing from approximately 15,000 to around 50,000 annually before the deterioration of the roads became a critical issue.
- 9.3.6. AMETA's submission further highlighted the broader economic implications, stating that the average tourist in South Africa spends about 1,750 rand per day in the region. Despite the Eastern Cape being recognized as a more budget-friendly destination, the inaccessibility of key attractions due to poor roads significantly limits the region's tourism revenue.
- 9.3.7. The association argued that the expansion of the tourism sector is heavily reliant on improved road infrastructure, not just to attract tourists but also to support the local labour force, which is essential for sustaining the hospitality industry. The deteriorating roads, therefore, not only reduce visitor numbers but also threaten the livelihoods of those employed in tourism-related activities.

## ***Agricultural Sector***

- 9.3.8. The agricultural sector, which is a cornerstone of the Eastern Cape's economy, has also been severely impacted by the lack of road infrastructure.
- 9.3.9. AgriEC, representing a portion of the agricultural community, provided a detailed account of how deteriorating roads are undermining the economic viability of farming operations across the province.
- 9.3.10 . The submission highlighted that poor road conditions obstruct access to farms, markets, and essential services, particularly during adverse weather conditions, leaving rural communities to bear the brunt of these impacts.
- 9.3.11 . AgriEC emphasised that the substandard road conditions lead to job losses, escalated transportation expenses, and diminished market competitiveness for farmers.
- 9.3.12 . Specific regions such as Tsitsikamma, Alexandria, Cradock, Patensie, Sundays River Valley, and Langkloof were identified as being profoundly affected by road degradation.
- 9.3.13 . The submission noted that delays in transporting produce to harbours, especially for export, compromise revenue generation within the agricultural sector. This not only affects the profitability of farmers but also has a ripple effect on the local economy, where agriculture is a major employer and contributor to economic stability.
- 9.3.14 . Furthermore, AgriEC's submission discussed the additional financial burden placed on farmers who are forced to undertake emergency road repairs under departmental supervision due to the inadequacy of government intervention.
- 9.3.15 . The organization even sought legal action against the Eastern Cape Department of Transport (ECDOT) to establish a formal procedure allowing farmers to carry out these repairs, underscoring the desperation and frustration within the sector.
- 9.3.16 . The poor road conditions, therefore, not only disrupt daily agricultural operations but also impose additional costs on farmers, further straining an already vulnerable sector.

### ***Transportation Sector***

9.3.17 . The transportation sector, including the taxi industry, has also suffered significantly due to the poor road infrastructure.

9.3.18 . The Mantlaneni community's submission, represented by Mr. Simthembile Myekwa, highlighted how the deplorable state of roads has severely compromised transportation services in the area.

9.3.19 . Mr. Myekwa pointed out that irregular maintenance of gravel roads, specifically mentioning roads such as the R61 to T-153 and T-155, has led to numerous potholes and dangerous driving conditions. This has resulted in increased vehicle maintenance costs for taxi operators and a reduction in the availability of reliable transportation for the community.

9.3.20 . The impact on the transportation sector extends beyond individual taxi operators.

9.3.21 . The poor road conditions have also affected the broader logistics and supply chain operations, as noted by Transnet in its submission. Transnet stressed that deficient road infrastructure leads to congestion, prolonged transit times, and heightened fuel consumption, all of which directly impact their operations.

9.3.22 . These inefficiencies not only increase operational costs but also have broader environmental concerns due to increased emissions and energy usage.

9.3.23 . The poor state of the roads, therefore, hampers the efficiency and reliability of transportation networks, which are critical for the economic well-being of the region.

### ***Small-Scale Enterprises and Cooperatives***

9.3.24 . The Commission further heard how small-scale enterprises and cooperatives, particularly in rural areas, have also been adversely affected by poor road infrastructure.

9.3.25 . The submission from Amadlelo Agri, which operates the Ncora Irrigation Scheme and Seven Stars Co-op, highlighted how road conditions have directly impacted their business operations.

9.3.26 . The submission noted that during the rainy season, road conditions deteriorate to the point where transportation is severely hampered, disrupting supply chains and compromising product availability in the market.

9.3.27 . Amadlelo Agri reported a significant decline in milk production at the Seven Stars farm, with annual output dropping from 10 million litres to approximately 4 million litres, leading to the cessation of factory operations.

9.3.28 . This downturn has had severe economic repercussions, including reduced employment opportunities and income for beneficiaries, further exacerbating local unemployment rates.

9.3.29 . The poor road conditions, therefore, not only affect the transportation of goods but also have a direct impact on the productivity and sustainability of small-scale enterprises and cooperatives, which are vital for the economic development of rural communities.

#### **9.4 IMPACT ON HUMAN RIGHTS**

9.4.1. The deteriorating state of road infrastructure in the Eastern Cape has had a profound and far-reaching impact on the delivery of public services by government departments, directly affecting the lives of residents, particularly in rural and remote areas. Submissions from key government departments, including Education, Health, and the South African Police Services (SAPS), paint a distressing picture of how inadequate roads have hampered their ability to fulfil their mandates. The emotional weight of these submissions underscores the human toll of these infrastructural deficiencies, as essential services are delayed, access to vital care is obstructed, and the safety and well-being of communities are compromised.

##### ***Department of Education***

9.4.2 The Eastern Cape Department of Education (ECDOE) highlighted the severe challenges it faces due to the poor condition of the province's roads, which directly impact the accessibility of education for thousands of learners.

9.4.3 It is trite that scholar transport, a crucial service that ensures children in rural areas can attend school, is significantly hampered by the state of the roads.

- 9.4.4 The ECDOE's submission reveals that many learners are forced to traverse dangerous and deteriorated roads, often without reliable transportation, leading to frequent absenteeism and even school dropouts.
- 9.4.5 The emotional burden on these children and their families is immense. The Department reported incidents where young learners had to cross rivers on foot during heavy rains, risking their lives simply to get to school.
- 9.4.6 These dangerous journeys not only threaten their safety but also contribute to the high dropout rates in the province, further exacerbating educational inequality. The ECDOE's data showed that the average age for enrolment in the schooling system in the province is between 8-10 years, as younger children are physically unable to endure the long, hazardous walks to school.
- 9.4.7 This delay in starting school has long-term implications for the educational outcomes of these children, creating a cycle of disadvantage that is difficult to break.
- 9.4.8 The Department also highlighted the impact on educators, particularly in rural areas where road conditions significantly differ from urban centres.
- 9.4.9 Educators face daily struggles to reach their schools, often enduring long and perilous commutes. The Department emphasised that these conditions deter qualified teachers from working in remote areas, leading to a shortage of skilled educators and further compromising the quality of education provided to students in these communities.

### ***Department of Health***

- 9.4.10 . The Eastern Cape Department of Health (ECDH) provided a submission detailing how the poor road infrastructure in the province has hindered its ability to deliver essential healthcare services.
- 9.4.11 The ECDH emphasised that well-maintained roads are not just a matter of convenience but are vital for the effective delivery of healthcare. The Department stressed that in emergencies, every minute counts, and the current road conditions often turn what should be a short trip to a healthcare facility into a dangerous and lengthy journey, with life-threatening consequences.



- 9.4.12 The submission highlighted tragic cases where delays in emergency medical services, due to impassable roads, have led to preventable deaths.
- 9.4.13 . In one particularly heart-wrenching account, the Department described how an ambulance was unable to reach a pregnant woman in time, resulting in the loss of both the mother and child. Such stories are not isolated incidents but part of a broader pattern where poor road conditions significantly contribute to the morbidity and mortality rates in the province.
- 9.4.14 . The ECDH also reported that transport-related accidents, exacerbated by the state of the roads, are among the top five causes of non-natural deaths in the Eastern Cape.
- 9.4.15 . The Department further allocates a substantial portion of its budget to maintaining its vehicle fleet, which is constantly subjected to damage from the rough and poorly maintained roads. Frequent repairs to ambulances and other medical vehicles not only strain the Department's financial resources but also reduce the availability of these vehicles for critical emergency services.
- 9.4.16 . The submission further revealed that the poor road infrastructure has led to service delivery delays in the transportation of essential medical supplies, such as medications and vaccines, to rural clinics. These delays impact the overall health outcomes of communities, particularly in regions where healthcare access is already limited. The Department's inability to consistently deliver healthcare services due to road conditions directly affects the right to health for the residents of the Eastern Cape.

#### ***South African Police Services (SAPS)***

- 9.4.17 . The South African Police Services (SAPS) provided a submission that starkly illustrated how poor road infrastructure in the Eastern Cape is compromising public safety and security.
- 9.4.18 . The SAPS reported that response times to emergencies are significantly delayed because police vehicles struggle to navigate the deteriorated and often treacherous roads.
- 9.4.19 . The impact of these delays is palpable, as communities are left vulnerable to crime, knowing that help may not arrive in time.

- 9.4.20 . The submission described how, in some rural areas, police stations are located far from the communities they serve, and the poor state of the connecting roads means that officers cannot respond quickly to incidents. This has led to situations where victims of crime are left waiting for hours, or even days, for assistance.
- 9.4.21 . The SAPS highlighted that the poor road conditions not only delay their response but also increase the wear and tear on police vehicles, leading to more frequent breakdowns and higher maintenance costs.
- 9.4.22 . These challenges directly affect the Department's ability to maintain a visible policing presence in rural areas, which is critical for deterring crime and ensuring public safety.
- 9.4.23 . The SAPS also emphasised the emotional toll on the officers themselves, who are often frustrated and demoralised by their inability to perform their duties effectively. The knowledge that they may not reach a crime scene in time, or that they might arrive too late to prevent harm, weighs heavily on the officers and impacts their overall morale. This has broader implications for the effectiveness of the police force in the region, as demoralised officers are less likely to perform at their best, further compromising public safety.

***Department of Cooperative Governance and Traditional Affairs (COGTA)***

- 9.4.24 . The Department of Cooperative Governance and Traditional Affairs (COGTA) highlighted how poor road infrastructure hinders its mission to support municipalities and ensure the effective delivery of services across the province.
- 9.4.25 . COGTA's submission pointed out that inadequate roads severely restrict access to areas where community development initiatives are underway, delaying or even preventing the implementation of these projects.
- 9.4.26 . This has significant implications for the socio-economic development of the region, as infrastructure projects are often the backbone of community improvement efforts.
- 9.4.27 . COGTA also reported that the poor state of the roads has made it difficult to carry out disaster management activities effectively.
- 9.4.28 . The Provincial Disaster Management Centre (PDMC), which is responsible for coordinating disaster response efforts, often struggles to reach affected areas due to impassable roads.

9.4.29 . This delay in response not only exacerbates the impact of disasters but also puts the lives of residents at greater risk. The Department emphasised that in disaster situations, the ability to reach affected communities quickly is crucial, and the current road conditions severely undermine this capability.

9.4.30 . Furthermore, COGTA's submission highlighted the frustration of municipal leadership, who frequently receive complaints from residents about the poor road conditions. These complaints often go unaddressed due to the municipalities' limited capacity to carry out necessary repairs, leading to a growing sense of dissatisfaction and mistrust among the public.

9.4.31 . The Department underscored the impact on community members who feel neglected and isolated because of the poor state of the roads, which they rely on for access to essential services and opportunities.

### ***Municipalities***

#### Climate change and disaster prevalence

9.4.32 . Municipalities, while being primary stakeholders responsible for the maintenance of local roads, have also been severely impacted by the poor state of road infrastructure, particularly in view of increasing prevalence of natural disasters.

9.4.33 . Since 2013, South Africa has faced a series of climate-induced disasters, including floods, droughts, and storms, which have increasingly strained municipal resources and infrastructure. The National Climate Change Response White Paper of 2011, followed by the development of the Climate Bill, acknowledges the severe threat that climate change poses to sustainable development and the achievement of the country's development goals. Despite these efforts, the readiness of municipalities to respond to such disasters varies widely, often influenced by factors such as the education, age, and economic status of the population. Vulnerable communities in high-risk regions are consistently less prepared, exacerbating the impact of these events.

9.4.34 . The occurrence of unprecedented and severe weather conditions has significantly hindered socio-economic progress in coastal areas, jeopardizing the attainment of the United Nations' Sustainable Development Goals (SDGs) for 2030. For example, in 2022, the Eastern Cape and KwaZulu-Natal provinces experienced catastrophic floods and landslides due to abnormal torrential rains, resulting in an estimated R17 billion in damages.

- 9.4.35 . By February 2023, the Eastern Cape was still grappling with the aftermath of severe floods and flash floods that caused extensive damage, amounting to an estimated R4.5 billion.
- 9.4.36 . These disasters necessitated substantial investments by the provincial government in repairs and replacements, particularly impacting proclaimed and access roads, bridges, and residential areas in rural districts. Municipal infrastructure bore the brunt of this damage, with 89 municipal roads and 18 bridges suffering severe damage, notably in Port St Johns, where four provincial roads were also affected.
- 9.4.37 . The repeated occurrence of such disasters, including those in 2021 and 2022, which were also declared as disasters, incurred approximately R1.9 billion in damages. During a media briefing, MEC Zolile Williams described these events as imposing a considerable burden on municipalities, with far-reaching implications for the province's financial stability and economic infrastructure.
- 9.4.38 . Notably, non-compliance with the Disaster Management Act by South African municipalities has been a significant issue. Many disaster management centers within municipalities are malfunctioning, under-resourced, and staffed by poorly trained officials, severely limiting their capacity to prepare for and respond proactively to climate-induced disasters.
- 9.4.39 . A mixed-methods study conducted by Wentink and Van Niekerk in 2017 examined whether South African municipalities are aligned with the provisions of the Disaster Management Act. The study found that municipalities often lack the time and resources to put effective disaster response structures in place, revealing a clear gap in the implementation of the Act. As a result, municipalities are increasingly left to "clean up the mess" after disasters, rather than being equipped to mitigate and manage the risks beforehand.
- 9.4.40 . This situation not only burdens municipalities with the responsibility of repairing and rebuilding damaged infrastructure but also drains their already limited financial and human resources.
- 9.4.41 . The recurring need for post-disaster recovery efforts diverts attention and funding away from proactive infrastructure maintenance and development, perpetuating the cycle of vulnerability and unpreparedness. As climate change continues to intensify, municipalities in the Eastern Cape and across South Africa will likely face even greater challenges unless significant improvements are made in disaster preparedness and infrastructure resilience.

## **Municipal Service Delivery challenges**

- 9.4.42 . In addition to the effects of disastrous occurrences, Municipalities submitted not only the challenges they face in fulfilling their road maintenance duties but also how these infrastructure deficits hinder their ability to deliver other critical services to communities.
- 9.4.43 . Municipalities are tasked with a broad range of services, including water provision, sanitation, housing, and economic development, all of which are inextricably linked to the accessibility and condition of road networks.
- 9.4.44 . The submissions from municipalities such as the Amathole and Alfred Nzo District Municipalities highlighted the cascading effects of poor road infrastructure on their broader service delivery mandates. For instance, the Alfred Nzo District Municipality reported that irregular road maintenance leads to escalating costs, not just for road repairs, but also for other municipal services.
- 9.4.45 . The poor road conditions make it difficult for municipal vehicles, such as those used for waste collection, water delivery, and emergency services, to reach certain areas, particularly during adverse weather conditions.
- 9.4.46 . This inaccessibility delays essential services, contributing to public health and sanitation issues, as waste collection becomes sporadic and unreliable, and access to clean water is compromised.
- 9.4.47 . The municipalities also emphasised how the poor road infrastructure affects economic development initiatives within their jurisdictions. For instance, the Chris Hani District Municipality noted that inadequate roads limit the ability to attract investment and develop local industries.
- 9.4.48 . Poor road access isolates communities, hindering the growth of local businesses and preventing residents from accessing markets, jobs, and services that are critical for economic development. This, in turn, exacerbates poverty and inequality, as marginalised communities remain trapped in cycles of underdevelopment due to their physical isolation.
- 9.4.49 . Moreover, municipalities like the O.R. Tambo District Municipality expressed frustration with their limited capacity to address these challenges, citing insufficient funding and a lack of technical resources.

9.4.50 . Despite these constraints, municipalities are often the first point of contact for residents, who expect timely and effective service delivery. The growing dissatisfaction and mistrust among communities, as reported also in COGTA submissions above, reflect the strain on both municipal officials and residents.

9.4.51 . Municipal leaders are frequently overwhelmed by the volume of complaints regarding road conditions, yet they struggle to respond effectively due to their constrained resources. This situation further erodes public confidence in local government and contributes to the sense of neglect and marginalisation felt by many communities.

9.4.52 . It is also important to note the impact the road conditions have on public transport within municipalities. Neglecting road maintenance and repair has multifaceted consequences, emphasising the critical importance of these activities in the public interest.

9.4.53 . The transportation burden faced by rural communities on a daily basis in rural South Africa is real and substantial. Many rural communities are not connected to the main rural network and do not have reliable access to socio-economic development opportunities, goods, and services. This lack of mobility and accessibility of goods and persons has limited their participation in economic activities and has further entrenched their isolation and marginalisation from the mainstream economy. Chambers (1982) ascribes a linkage between rural poverty and issues of access, with access to appropriate transportation he argues that it is regarded as one of the most significant determinants of rural poverty.

9.4.54 Enhanced infrastructure can streamline the transportation of water, crops, timber, and other goods, thereby significantly enhancing the quality of life for rural residents. Consequently, the construction and maintenance of rural roads emerge as indispensable components for rural development.<sup>9</sup>

### **Community Mobility Challenges**

9.4.55 . Mobility is a critical factor in ensuring that communities have access to opportunities, and the integration of sustainable transport modes is essential for expanding access to essential services and enhancing mobility. However, local

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<sup>9</sup> Referencing the Eastern Cape Rural Transport Plan: Strategic Framework 2004-2014, it was acknowledged that the underdevelopment of the rural transportation network prompted the formulation of a Strategic Framework aimed at establishing the Provincial Rural Transport Plan. This initiative stemmed from mounting concerns over the inadequacy of an effective and efficient rural transport system in the province, which was recognised as a significant barrier to rural economic advancement and poverty alleviation efforts.

municipalities in the Eastern Cape are facing significant challenges in realising these goals due to the current state of road infrastructure.

9.4.56 . As consistently pointed out during the Inquiry, the existing road networks within many municipalities are inadequate to support the integration of sustainable transport modes, such as public transit, cycling, and even walking pathways.

9.4.57 . This deficiency not only undermines the potential benefits of these sustainable options but also hinders effective coordination with land-use planning.

9.4.58 . As a result, there is a higher frequency of trips made by motor vehicles, which places additional strain on the already fragile road infrastructure.

9.4.59 . This disconnect between road conditions and sustainable transport integration exacerbates the challenges municipalities face in managing their transport systems.

9.4.60 . Adopting sustainable transport modes would alleviate some of the pressure on road infrastructure by reducing vehicle traffic, thereby extending the lifespan of roads and decreasing maintenance costs. However, the reality on the ground is that local municipalities lack the resources and infrastructure needed to implement these changes effectively.

9.4.61 . The continued reliance on road transport, particularly for freight movement, has not shifted significantly towards rail or other more sustainable modes of transport. This failure to achieve intermodal shifts results in serious problems, including increased congestion, higher levels of air pollution, and accelerated infrastructure degradation.

9.4.62 . As per the below illustration, the table shows modes of transportation used by RSA household members to travel to school and work:

Mode of transport	Usual transport to school		Usual transport to work	
	N	%	N	%
Walking	10 528	63,	3 878	22,
Bicycle/motorcycle	16	0,1	80	0,5
Minibus taxi/sedan taxi/bakkie taxi	1 291	7,8	4 330	25,
Bus	756	4,6	672	3,9
Train	5	0,0	23	0,1

Minibus/bus provided by institution/government and not paid for	302	1,8	n/a	n/a
Vehicle hired by a group of parents	2 001	12,	n/a	n/a
Own car or other private vehicle	1 672	10,	5 628	32,
Lift club	n/a	n/a	459	2,7
None, studies/works from home	n/a	n/a	2 211	12,
Other	57	0,3	56	0,3
<b>Total</b>			<b>16 628</b>	<b>100,0</b>
	<b>100,0</b>			<b>17 338</b>

Source: Department of Statistics South Africa (General Household Survey 2022)

9.4.63 . Data further shows that 34.9% of South African households rely on minibus taxis, sedan taxis, or bakkie taxis for transportation.

9.4.64 . The declining use of trains, which in 2019 was already low at 1.8% of households, has further exacerbated the problem. By 2022, train usage had declined so significantly that reliable provincial estimates were unavailable. This shift from rail to road transport adds to congestion, accelerates road deterioration, and increases the demand for maintenance, all of which strain municipal resources.

9.4.65 . Municipalities are thus left to manage the consequences of a transport system that is overly dependent on road-based solutions, particularly in the absence of reliable rail alternatives.

9.4.66 . The Commission therefore notes that Municipalities are caught in a cycle where poor road conditions lead to increased dependence on motor vehicles, which further degrades the roads and perpetuates the challenges associated with maintaining a functional and sustainable transport system.

9.4.67 . To break this cycle, there is an urgent need for targeted investment in infrastructure that supports sustainable transport modes and reduces the over-reliance on road-based transport



## **9.5 HISTORICAL NEGLECT AND FUNDING INADEQUACIES**

### ***Funding Models and Historical Neglect***

- 9.5.1. The inquiry has illustrated that the funding model for road infrastructure in the Eastern Cape has been a significant factor in the region's persistent challenges with road maintenance and development.
- 9.5.2 The submissions from the Department of Transport (DOT) and Provincial Treasury paint a stark picture of historical underfunding and a possible flawed funding model that has left the Eastern Cape ill-equipped to address its vast infrastructure needs.
- 9.5.3 This is because the Eastern Cape's road infrastructure issues are deeply rooted in the historical neglect that dates back to prior the democratic dispensation. During this period, the former Bantustans of Transkei and Ciskei, which now form significant parts of the province, were systematically underdeveloped, with minimal investment in infrastructure.
- 9.5.4 This neglect has left a legacy of poorly constructed and maintained roads, which the province has struggled to upgrade and maintain in the post-apartheid era.
- 9.5.5 The Department of Transport (DOT) emphasised in its submission, and as unpacked above, that the Eastern Cape has inherited a disproportionately large and underdeveloped road network compared to other provinces.
- 9.5.6 Out of the approximately 40,153 kilometers of provincial roads, only 9.5% (3,808 kilometers) are paved, with the remaining 90.5% (36,345 kilometers) being unpaved. Again, this is a stark contrast to the national average, where about 25% of provincial roads are paved.
- 9.5.7 The DOT's submission highlighted that this disparity is not merely a reflection of the current administration's efforts but is deeply tied to the historical context where the Eastern Cape was consistently deprived of the necessary resources to develop its infrastructure.
- 9.5.8 The Provincial Treasury echoed this sentiment, noting that the funding formula used by the national government, which is largely population-based, does not adequately account for the extensive infrastructure backlog in the Eastern Cape.

- 9.5.9 The Treasury pointed out that the Eastern Cape, being one of the largest provinces geographically but with a declining population, suffers under a funding model that does not factor in the vastness of its road network or the historical neglect that necessitates a greater-than-average investment in infrastructure.
- 9.5.10 The current funding model, therefore, exacerbates the inequities inherited from the past, making it nearly impossible for the province to catch up with the rest of the country.

### ***The Inadequacy of the Current Funding Model***

- 9.5.11 The Provincial Roads Maintenance Grant (PRMG), which is the primary source of funding for road maintenance in the province, is severely inadequate to meet the needs of the Eastern Cape.
- 9.5.12 The Department of Transport detailed how the annual PRMG allocation of approximately R750 million is grossly insufficient to address the capital backlog, let alone keep up with ongoing maintenance. Given that the cost of upgrading a single kilometre of road averages around R18 million, the current budget allows for the upgrade of only about 42 kilometers of road per year. This rate of progress is negligible when considering that the total backlog is estimated at R30.5 billion.
- 9.5.13 The DOT further explained that the replacement value for the province's surfaced roads alone is estimated at R48 billion, with an additional R17.2 billion needed to replace unpaved roads.
- 9.5.14 These figures starkly illustrate the futility of current funding levels in making any significant impact on the province's infrastructure challenges.
- 9.5.15 The Department's submission candidly acknowledged that, under the present funding model, it would take over two decades just to address the existing backlog, assuming no further deterioration occurs during that time—a scenario that is highly unlikely given the current state of the roads.
- 9.5.16 Treasury's submission reinforced the DOT's concerns, highlighting that the Eastern Cape is disproportionately reliant on the PRMG for its road infrastructure needs.

- 9.5.17 The Treasury pointed out that this reliance reflects a strategic decision, as the province lacks alternative sources of revenue that could be allocated to road infrastructure. Unlike provinces such as Gauteng and KwaZulu-Natal, which benefit from more diverse revenue streams, including toll roads and substantial urban tax bases, the Eastern Cape’s revenue generation is limited. This leaves the province heavily dependent on national transfers, which are insufficient to meet its extensive infrastructure needs.<sup>10</sup>
- 9.5.18 The submissions illustrate that the PRMG was originally designed to supplement, not replace, provincial funding for road maintenance. However, in practice, the PRMG has become the primary source of funding for road infrastructure in the Eastern Cape, with little to no additional provincial funds available to fill the gap.

### ***Futility of Current Efforts and the Need for a New Model***

- 9.5.19 The Department of Transport’s submission lays bare the futility of the current efforts under the existing funding model.
- 9.5.20 With only 42 kilometers of road being upgraded annually, and with the province’s road network continuing to deteriorate, the DOT made it clear that the status quo is unsustainable.
- 9.5.21 The department highlighted that even maintaining the existing network, without any upgrades, requires far more resources than what is currently provided. Routine maintenance alone for gravel roads is estimated to cost around R1.9 billion annually, yet the province receives less than half of this amount through the PRMG.

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<sup>10</sup> In addition to the limitations of the PRMG, the broader funding framework for South Africa’s road infrastructure is insufficient to meet the growing demands for maintenance and development. The Draft White Paper on Roads Policy (2018) highlights a significant shortage of funds, leading to a substantial backlog in road maintenance. Revenues from sources like the fuel levy, vehicle licenses, and tolls are allocated by the National Treasury but often fall short, particularly in regions with extensive infrastructure needs like the Eastern Cape. The government’s policy of not providing additional funding exacerbates this shortfall, forcing state-owned entities and municipalities to seek alternative funding sources, which have not sufficiently bridged the gap. Municipalities rely heavily on the Municipal Infrastructure Grant (MIG) to provide basic services, including roads. However, this funding is often inadequate, especially in areas with large backlogs. Without a significant shift in funding strategies, the current challenges in maintaining and improving road infrastructure are likely to worsen. See Van Rensburg, J.A. & Krygsman, S.C., 2019, ‘Funding for roads: Understanding the South African road funding framework’, *Journal of Transport and Supply Chain Management* 13(0), a453. <https://doi.org/10.4102/jtscm.v13i0.453>; Luntu Ndalasi, Lubabalo Luyaba, Azwifarwi Irene Vele “Revising the Municipal Infrastructure Grant to Improve Expenditure and Quality Outcomes”.

- 9.5.22 Furthermore, the DOT's submission noted that the reliance on external contractors for road maintenance, driven by the lack of internal capacity and resources, has led to inefficiencies and inflated costs.
- 9.5.23 This suggests that the current funding model, which necessitates the use of external contractors due to budgetary constraints, results in a cycle of inadequate maintenance and continuous deterioration. The reliance on short-term, piecemeal solutions rather than comprehensive, long-term infrastructure planning exacerbates the province's challenges.
- 9.5.24 The Provincial Treasury and the DOT both called for a reassessment of the funding model. They proposed a shift towards a needs-based funding approach that takes into account the historical underdevelopment, the size of the road network, and the actual costs of maintenance and upgrades.
- 9.5.25 The Treasury specifically suggested that the current population-based funding model is ill-suited for addressing the deep-seated infrastructure challenges in the Eastern Cape and advocated for a model that includes a backlog component, similar to what was previously in place before 2005.
- 9.5.26 The Inquiry therefore illustrated that the funding model currently in use for road infrastructure in the Eastern Cape is fundamentally flawed and inadequate to meet the province's needs.
- 9.5.27 The historical neglect of the region's infrastructure, combined with a funding formula that fails to account for the extensive backlog and ongoing maintenance requirements, has left the Eastern Cape in a perpetual state of infrastructural crisis.
- 9.5.28 The submissions from the Department of Transport and Provincial Treasury, supported by submissions from academia make it clear that without a significant overhaul of the funding model, the Eastern Cape will remain unable to address its infrastructure challenges, perpetuating the cycle of underdevelopment and inequality in the province.

### ***Related financial challenges***

- 9.5.29 Municipalities in the Eastern Cape have been known to struggle to be efficient due to poor performance, political instability and irregular expenditure, resulting

in municipalities to seek frequent financial assistance from the national government.

- 9.5.30 Conversely, mismanagement of funds directly affects efficiency and performance, which are critical across various key performance areas, including municipal viability and management. To assess municipality viability, consideration is given to factors such as financial stability, capital expenditure, and the effective management of budgetary revenues and expenditures. These elements are crucial for ensuring financial transparency and evaluating the overall fiscal health of local governments. However, persistent concerns remain about the sustainability of municipalities within the province, aggravated by ongoing issues of financial mismanagement highlighted in audit reports.
- 9.5.31 Assessing the realisation of financial management goals involves scrutinising how effectively municipal resources are managed to achieve desired outcomes.
- 9.5.32 For example, in the 2017/18 financial year, it was reported that only around 13% of municipalities were able to issue financial statements and achieve clean audits, indicating their adherence to standards of accountability and transparency. The majority of municipalities fail to achieve a clean audit due to their expenditures exceeding budget allocations, coupled with a continued rise in wasteful spending amounting to millions annually. During the same period, a significant 77% of municipalities were marked by inefficiencies, including irregular expenditure and mismanagement of funds. The aforementioned continues to hinder progress and weaken the operational capabilities of many local authorities.
- 9.5.33 Whilst the Inquiry illustrated the challenges municipalities have in respect of funding, the Commission is acutely aware of the financial mismanagement which occurs at municipal level. It therefore indicates towards a supposition that should the Municipalities be smarter more responsible towards their financial management, more funds may be available to address roads maintenances and upkeep backlog.<sup>11</sup>

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<sup>11</sup> Further to this, the Commission notes that corruption poses a significant threat to democracy and the rule of law, signifying a deficit in ethical leadership and the breakdown of institutions tasked with upholding good governance standards. In South Africa's political landscape, the practice of politically deploying individuals into key positions has influenced hiring strategies. This approach is believed to have cascading effects, contributing to incidents of fraud and nepotism. Corrupt practices have particularly affected local government, leading to misappropriation of funds and other misconduct. For instance, during the 2012 – 2013 fiscal year, contracts worth approximately R 3.374 billion were awarded to family members, illustrating the scale of the issue. Similarly, a well-functioning and well-governed society that seeks to maximise its developmental potential and the welfare of its residents requires an efficient public service. Inadequate governance, manifested through a lack of accountability and ineffective consequence management, has significantly undermined good governance in the realm of local government, thereby endangering the provision of essential services. This governance deficit is starkly evident in the intervention or administration imposed on 23 municipalities in 2021, a number that increased to 33 by February 2022. These interventions underscore the severe deterioration of many municipalities, prompting

## **10 LEGAL ANALYSIS AND FINDINGS**

10.4 In accordance with Section 7(2) of the Constitution, the state is obligated to "respect, protect, promote and fulfil the rights in the Bill of Rights." The Commission finds that the government's failure to address the significant road infrastructure backlog and the insufficient funding mechanisms have led to widespread violations of multiple constitutional rights. The lack of effective road maintenance and development has had a broad and detrimental impact on the population, particularly in the Eastern Cape, thus violating the rights to Equality, Human Dignity, Life, Freedom of Movement, Access Healthcare Services, Basic Education, Employment, Safety and Security and a Healthy Environment.

### **Violation of the Right to Equality (Section 9)**

10.5 The Commission finds that the government's inadequate provision of road infrastructure, particularly in rural and marginalized communities, constitutes a violation of the right to equality under Section 9 of the Constitution.

10.6 The stark disparity in road conditions between urban and rural areas exacerbates existing inequalities, limiting access to essential services such as healthcare, education, and economic opportunities for vulnerable populations. This neglect perpetuates historical inequalities, particularly affecting farming communities and small-scale enterprises that rely on efficient transport networks to sustain their livelihoods.

10.7 The failure to prioritize infrastructure in these areas further entrenches socio-economic disparities, undermining the principle of equal treatment and access for all citizens.

### **Violation of the Right to Human Dignity (Section 10)**

10.8 The Commission finds that the severe limitations imposed by inadequate road infrastructure infringe upon the right to human dignity as enshrined in Section 10 of the Constitution.

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provincial governments to intervene to rectify governance deficiencies, improve financial management, and restore effective service delivery. See Kroukamp, H., & Cloete, F. (2018). Improving professionalism in South African local government; Thusi, X & Selepe, M., The Impact of Poor Governance on Public Service Delivery: A Case Study of the South African Local Government. *International Journal of Social Science Research and Review* 6(4):120-134

10.9 Communities are forced to endure unsafe, unreliable, and often hazardous travel conditions, particularly in rural and underdeveloped areas. The inability to access basic services due to poor roads, coupled with the impact on economic activities, directly diminishes the quality of life for these populations. This lack of dignity is exacerbated by the fact that these conditions persist despite clear constitutional mandates for the government to ensure the well-being of all its citizens.

#### **Violation of the Right to Life (Section 11)**

10.10 The Commission finds that the inadequate road infrastructure, which significantly hampers access to emergency medical services and increases the risk of road accidents, constitutes a violation of the right to life under Section 11 of the Constitution.

10.11 The deteriorating road network, particularly in rural areas, delays emergency response times, endangering lives, and increasing the likelihood of fatal accidents. The state's failure to maintain roads that are critical for emergency access directly contravenes its duty to protect the lives of its citizens.

#### **Violation of the Right to Freedom of Movement (Section 21)**

10.12 The Commission finds that the poor condition of road infrastructure in the Eastern Cape severely restricts the right to freedom of movement guaranteed by Section 21 of the Constitution.

10.13 The deteriorating road conditions, particularly in rural and marginalized areas, limit the ability of individuals to travel freely for work, education, and access to essential services. This restriction is particularly acute during adverse weather conditions, when many roads become impassable, effectively isolating communities and further limiting their mobility.

10.14 The lack of reliable road infrastructure not only impedes daily activities but also restricts broader social and economic participation, violating the fundamental right to movement.

### **Violation of the Right to Access Healthcare Services (Section 27)**

- 10.15 The Commission finds that the poor state of road infrastructure in the Eastern Cape infringes upon the right to access healthcare services as guaranteed under Section 27 of the Constitution.
- 10.16 The inadequate maintenance of roads, particularly in rural areas, delays or entirely prevents access to medical facilities, leading to detrimental health outcomes. This failure significantly hinders the progressive realization of the right to healthcare, particularly in emergencies where timely access to medical services is critical. The Commission emphasizes that this violation has a disproportionate impact on vulnerable populations, who are already facing barriers to accessing healthcare due to their geographic and socio-economic status.

### **Violation of the Right to Basic Education (Section 29)**

- 10.17 The Commission finds that the poor road conditions that impede children's ability to attend school, particularly in rural areas, violate the right to basic education under Section 29 of the Constitution.
- 10.18 The inaccessibility of schools due to unsafe or impassable roads leads to high absenteeism rates, educational disruptions, and unequal educational opportunities, perpetuating the cycle of poverty and underdevelopment in these communities.
- 10.19 The state's failure to provide necessary infrastructure to support regular school attendance directly undermines the right to education, which is a cornerstone for the socio-economic advancement of individuals and communities.

### **Violation of the Right to Employment (Section 22)**

- 10.20 The Commission finds that the inadequate road infrastructure also infringes upon the right to choose and pursue a trade, occupation, or profession freely, as outlined in Section 22 of the Constitution. Poor road conditions hinder economic activity by limiting access to markets, job opportunities, and the efficient movement of goods and services.



10.21 This lack of infrastructure stifles economic growth and development, particularly in rural areas, where employment opportunities are already scarce. The failure to provide reliable roads that connect individuals to economic opportunities is a direct violation of their right to employment and economic participation.

### **Violation of the Right to Safety and Security (Section 12)**

10.22 The Commission finds that the government's failure to maintain safe road conditions constitutes a violation of the right to safety and security, as guaranteed by Section 12 of the Constitution.

10.23 Dangerous and poorly maintained roads increase the risk of accidents and injuries, compromising the safety and well-being of all road users. The state's neglect in this area fails to protect citizens from harm, undermining their right to live and travel in a safe environment.

10.24 This violation is particularly concerning in light of the high rate of road fatalities and injuries in the Eastern Cape, which are exacerbated by the poor condition of the road network.

10.25 Furthermore, the poor road infrastructure contributes to a delay in response times from police services, increasing the risk communities are subjected to.

### **Violation of the Right to a Healthy Environment (Section 24)**

10.26 The Commission finds that the current state of road infrastructure, which is unsustainable and environmentally damaging, violates the right to a healthy environment as provided in Section 24 of the Constitution.

10.27 The over-reliance on deteriorating road networks, coupled with inadequate maintenance, contributes to environmental degradation through increased vehicle emissions, pollution, and the destruction of natural landscapes.

10.28 The state's failure to develop sustainable transport infrastructure not only harms the environment but also jeopardizes the health and well-being of current and future generations.

10.29 The Commission stresses that the pursuit of sustainable development requires a balanced approach that includes the maintenance and improvement of road infrastructure in a manner that protects the environment.

### **Failure of Local Government Obligations (Sections 152 and 153)**

10.30 The Commission finds that local governments have failed to fulfil their constitutional obligations under Sections 152 and 153, which require them to ensure the provision of services and promote social and economic development.

10.31 The widespread neglect of road infrastructure reflects a failure by local governments to adequately plan, manage, and execute their responsibilities. This failure not only infringes upon the rights of individuals but also hampers broader development goals, limiting economic growth, access to essential services, and the overall sustainability of communities.

10.32 The lack of adequate road infrastructure, especially in rural areas, highlights a systemic issue within local governance that must be addressed urgently to fulfil the constitutional mandate.

### **Findings Conclusion**

10.33 The Commission concludes that the state has failed to meet its constitutional obligations as outlined in Section 7(2) of the Constitution. The persistent backlog in road infrastructure, coupled with insufficient and mismanaged funding, has led to widespread violations of fundamental rights, including the rights to equality, dignity, life, freedom of movement, healthcare, education, employment, safety, and a healthy environment. The Commission further finds that these failures reflect a broader systemic issue within the government's approach to infrastructure development and maintenance, particularly in rural and marginalized communities.

10.34 The lack of effective road maintenance and development not only hampers access to essential services but also perpetuates socio-economic inequalities, undermines public safety, and exacerbates environmental degradation.

10.35 The state's obligations under various legal frameworks, including the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA), the National

Health Act, the South African Schools Act, the National Environmental Management Act (NEMA), and the Municipal Systems Act, have not been met, further compounding the impact of these violations.

- 10.36 Immediate and comprehensive action is required to rectify these issues, including increased and properly managed funding, better planning, and more effective execution of infrastructure projects.
- 10.37 The Commission emphasizes that such actions are necessary not only to address the current backlog but also to ensure sustainable development that respects and protects the rights of all individuals in the Eastern Cape.
- 10.38 Without such intervention, the ongoing neglect will continue to erode the rights and well-being of the province's most vulnerable communities, perpetuating cycles of poverty, inequality, and environmental harm.

## **11 RECOMMENDATIONS**

### **Introduction**

- 11.4 In accordance with the South African Human Rights Commission (SAHRC) Act, the Commission is vested with the authority to make recommendations that promote and protect human rights within the framework of the Constitution. The preamble of the Act underscores the SAHRC's constitutional mandate to foster respect for human rights, ensure their protection and development, and monitor the observance of these rights across South Africa.
- 11.5 Specifically, Section 13(1)(a)(i) empowers the Commission to issue recommendations to organs of state at all levels of government whenever such actions are deemed necessary to advance human rights.
- 11.6 Section 13(3)(a) also empowers the Commission to assist persons affected by human rights violations, to secure redress. This provision underscores the Commission's role in not only recommending remedial actions but also actively pursuing legal avenues to ensure that justice is served and human rights are upheld.
- 11.7 Furthermore, section 18(2) calls on the Commission to submit to the National Assembly reports on its findings of a serious nature. Section 18(4) further states that if the Commission makes any finding or recommendation in respect of a

matter investigated by it known to the head of the organisation or institution or executive authority of any national or provincial department concerned, the head of the organisation or institution or the executive authority of any national or provincial department concerned must within 60 days after becoming aware of such finding or recommendation respond in writing to the Commission, indicating whether his or her organisation, institution or department intends taking any steps to give effect to such finding or recommendation, if any such steps are required.

11.8 In view thereof, the Commission makes the following recommendations:

### **NATIONAL TREASURY**

#### *Urgent Intervention to Address the Eastern Cape Roads Backlog*

11.8.2 The National Treasury must prioritize and assist the Eastern Cape Provincial Government in addressing the critical roads infrastructure backlog as a matter of urgency.

11.8.3 Specific focus should be placed on **increasing the percentage of paved roads in the Eastern Cape from the current 9% to at least the national average of 25%**. This intervention is essential to ensure equitable access to safe and reliable transport infrastructure across all provinces.

11.8.4 Treasury should allocate targeted funding through a special infrastructure development grant specifically aimed at road paving and rehabilitation in the Eastern Cape. This funding should be ring-fenced to prevent diversion to other projects and should be disbursed with strict timelines and accountability measures to ensure prompt and effective utilization.

#### *Exploration of Alternative Funding Methods*

11.8.5 The National Treasury should explore and implement alternative funding methods to address the historical and cyclical neglect of road infrastructure in the Eastern Cape.

11.8.6 One such method could include the introduction of a **once-off fuel levy, specifically earmarked for infrastructure development in the province**. This levy would be designed to generate immediate and substantial funding to bring

the Eastern Cape's infrastructure on par with other provinces, thereby fostering urgent economic development and prosperity.

- 11.8.7 Treasury should conduct a comprehensive feasibility study on the proposed fuel levy, including its potential economic impact, revenue generation, and public acceptance. Based on the study's findings, a detailed implementation plan should be developed, outlining the levy's scope, duration, and the specific infrastructure projects it will fund. The levy should be accompanied by transparent reporting mechanisms to ensure that funds are used exclusively for the intended purpose.

#### *Re-evaluation of the Equitable Grants Funding Model*

- 11.8.8 The National Treasury should reconsider and potentially revise the current equitable grants funding model, particularly in the context of the Eastern Cape's unique challenges.
- 11.8.9 The cyclical nature of inadequate infrastructure funding—**where insufficient investment leads to population decline, which in turn results in even less funding**—needs to be addressed to break this vicious cycle. Treasury should develop a model that takes into account the need for sustained and substantial investment in regions suffering from **historical neglect**.
- 11.8.10 Treasury should thus initiate a review of the equitable share formula, with particular attention to infrastructure needs in underdeveloped provinces like the Eastern Cape. This **review should consider factors such as historical underinvestment, population outmigration, and the need for infrastructure as a catalyst for economic recovery and growth**. Based on this review, a revised funding model should be proposed that allocates additional resources to regions with significant infrastructure deficits, ensuring a more balanced and equitable distribution of national resources.

### **EASTERN CAPE PROVINCIAL TREASURY**

#### *Leveraging Public-Private Partnerships (PPPs)*

- 11.8.11 The Eastern Cape Provincial Treasury should actively **pursue and facilitate public-private partnerships (PPPs) to supplement government funding** for

road infrastructure projects. Engaging the private sector can help bridge the funding gap and expedite the completion of critical infrastructure projects.

- 11.8.12 Develop a framework for PPPs **that incentivizes private investment in road infrastructure, such as offering tax incentives or co-funding opportunities**. The Department should also establish a dedicated unit to identify potential PPP projects, manage negotiations, and oversee the implementation of these partnerships.

#### *Exploring Alternative Revenue Streams*

- 11.8.13 Provincial Treasury should further explore alternative revenue streams to generate additional funding for road infrastructure. This could include options such as **tolling specific high-traffic routes**.

- 11.8.14 In conjunction with stakeholders, conduct a feasibility study to identify potential alternative revenue sources, including the economic impact and public acceptance of tolling or levies. Based on the study's outcomes, Provincial Treasury should **develop a plan to implement these revenue-generating mechanisms**, with clear guidelines on how the funds will be allocated and managed.

#### *Addressing the Equitable Share Formula Challenges*

- 11.8.15 Provincial Treasury should **advocate for a review of the equitable share formula** at the provincial level, ensuring that the unique infrastructure challenges of the Eastern Cape are adequately addressed. This is particularly important in regions where population decline due to inadequate infrastructure further reduces funding allocations, perpetuating a cycle of underdevelopment.

- 11.8.16 Provincial Treasury should work closely with the National Treasury to develop a proposal for revising the equitable share formula. This proposal should highlight the specific challenges faced by the Eastern Cape, including **historical neglect, geographic dispersion, and the need for sustained investment to reverse population decline and stimulate economic growth**.

### *Strengthening Interdepartmental Collaboration*

- 11.8.17 Provincial Treasury should foster stronger collaboration with other provincial departments, particularly the Department of Transport, to ensure that financial planning and infrastructure development are aligned. This includes joint planning sessions, shared goals, and coordinated implementation strategies to maximize the impact of available funds.

## **NATIONAL DEPARTMENT OF TRANSPORT**

### *Comprehensive Road Infrastructure Development Program*

- 11.8.18 The National Department of Transport should initiate and implement a comprehensive road infrastructure development program specifically targeting underdeveloped provinces like the Eastern Cape. This program should **aim to bring the province's road network up to the national standard**, particularly by increasing the percentage of paved roads.
- 11.8.19 Develop a targeted initiative under the Strategic Integrated Projects (SIPs) framework, specifically focusing on improving road connectivity in the Eastern Cape. This initiative should include clear milestones, dedicated funding, and regular progress reviews to ensure that the development targets are met.

### *Focus on Sustainable and Climate-Resilient Infrastructure*

- 11.8.20 The Department should prioritize the development of sustainable and climate-resilient road infrastructure in the Eastern Cape, considering the region's vulnerability to extreme weather events and environmental degradation.
- 11.8.21 The Department should integrate climate resilience into the planning and design of all new road projects in the Eastern Cape. This includes using materials and construction techniques that can withstand extreme weather, as well as incorporating green infrastructure such as natural drainage systems and reforestation efforts alongside roadways.

### *Reinforcement of Rail Infrastructure to Alleviate Road Pressure*

11.8.22 The Department should prioritize the revitalization and expansion of the rail network in the Eastern Cape as part of a broader strategy to **shift freight and passenger traffic from road to rail**. This would reduce the pressure on road networks, lower maintenance costs, and contribute to environmental sustainability.

11.8.23 The Department should further fast-track the implementation of the Freight Road to Rail Migration Plan (FRRMP) in the Eastern Cape, focusing on rehabilitating existing rail lines and developing new connections. **Collaborate with Transnet** and other relevant entities to ensure that rail infrastructure is upgraded in a way that supports regional economic activities, particularly in agriculture and manufacturing.

#### *Implementation of Innovative Funding Mechanisms*

11.8.24 The Department should work with the National Treasury to explore and implement innovative funding mechanisms that can supplement traditional sources of road infrastructure financing. **This could include toll roads, infrastructure bonds, and dedicated levies, particularly for high-traffic routes in the Eastern Cape.**

### **EASTERN CAPE DEPARTMENT OF TRANSPORT**

#### *Targeted Support for Tourism and Farming Sectors*

11.8.25 The ECDOT should prioritize the repair and maintenance of roads that are crucial to the tourism and farming sectors. These sectors are vital to the provincial economy and require reliable transport infrastructure to function effectively.

11.8.26 In doing so the ECDOT must establish a dedicated task force within the ECDOT to identify and prioritize critical road projects in key tourism and farming areas. This task force should work closely with stakeholders from these sectors to ensure that the most pressing infrastructure needs are addressed promptly.

#### *Prioritization of Critical Routes to Essential Services*



- 11.8.27 The ECDOT should prioritize the maintenance and upgrading of roads that provide access to hospitals, schools, and police stations, ensuring that these essential services are not disrupted by poor road conditions.
- 11.8.28 The ECDOT should thus conduct a province-wide audit to identify all critical routes leading to hospitals, schools, and police stations. Based on the audit findings, develop a priority list for road maintenance and upgrades, ensuring that these routes are kept in optimal condition. The ECDOT should also establish emergency response protocols to address any road damage that threatens access to these essential services.

#### *Expedited Repairs for Emergency and SAPS Vehicles*

- 11.8.29 The ECDOT should ensure that vehicle repairs at the provincial repair workshop prioritize Emergency Medical Services (EMS) and South African Police Service (SAPS) vehicles. These vehicles are essential for public safety and emergency response, and any delays in their repair can have serious consequences.
- 11.8.30 In doing so, the ECDOT should implement a priority repair protocol at the provincial repair workshop, ensuring that EMS and SAPS vehicles are repaired and returned to service as quickly as possible. The ECDOT should also allocate additional resources to the workshop to reduce repair times and improve overall service efficiency, by considering offering apprenticeships through engagement with the relevant Services Education Training Authority (SETA)

#### *Establish a Private Road Repair and Reimbursement Process*

- 11.8.31 The Eastern Cape Department of Transport should **urgently implement a clear process for private individuals, cooperatives, and businesses to undertake road repairs and claim reimbursement**, as permitted under the National Roads Act (Act 54 of 1971).
- 11.8.32 The Department must develop guidelines outlining the approval process and documentation required for these repairs, with a focus on **expediting approvals** in areas with urgent needs. A dedicated unit should be established to manage applications and ensure timely reimbursements.

11.8.33 This process will enable the Department to leverage private capacity to address critical road maintenance, particularly on essential routes like those to hospitals, schools, and agricultural areas, ensuring these roads are kept safe and functional.

*Enhanced Collaboration with SANRAL and Other Agencies*

11.8.34 The ECDOT should enhance its collaboration with SANRAL and other relevant agencies to ensure that strategic and primary road networks that are **beyond the provincial budget are adequately maintained and developed**.

11.8.35 The ECDOT should thus strengthen partnerships with SANRAL for the management and development of key road networks in the province. This should include joint planning sessions, shared funding arrangements, and regular coordination meetings to align priorities and resources. The ECDOT should also explore co-funding models with national agencies to maximize the impact of available resources.

*Urgently address active Commission Complaints*

11.8.36 Urgently address the concerns highlighted by specific complaints to the Commission as set out in Paragraph 2 and 3 above.

## **DISTRICT MUNICIPALITIES**

*Implementation and Optimization of Road Asset Management Systems (RAMS)*

11.8.37 District municipalities should fully implement and optimize their Road Asset Management Systems (RAMS) to accurately assess and manage the condition of local roads. **RAMS should be used as a primary tool** for identifying maintenance needs, prioritizing road repairs, and planning long-term infrastructure development.

11.8.38 District municipalities must ensure the effective and strategic use of the Provincial Road Maintenance Grant (PRMG) to address the most urgent road maintenance needs within their jurisdictions. The PRMG should be allocated based on the priorities identified through RAMS, ensuring that funds are directed to the most critical infrastructure projects.

## *Ensuring Fully Operational Yellow Fleets for Local Municipalities*

- 11.8.39 District municipalities should ensure that each of their local municipalities is equipped with a fully operational yellow fleet—a collection of heavy-duty vehicles and machinery essential for road maintenance and construction activities.
- 11.8.40 This is critical for enabling timely and efficient road repairs, especially in remote and rural areas where infrastructure degradation can quickly become severe if not addressed promptly.
- 11.8.41 District municipalities should further conduct an assessment of the current state of yellow fleets across all local municipalities within their jurisdiction. Based on this assessment, they should develop a plan to upgrade or expand these fleets as necessary, which may include purchasing new equipment, repairing existing machinery, or reallocating resources from other areas.
- 11.8.42 Additionally, a fleet management system should be established to ensure regular maintenance, efficient use, and rapid deployment of these vehicles to areas in need. District municipalities should also consider establishing shared services agreements where neighbouring local municipalities can pool resources to maximize the utilization and availability of their yellow fleets.

## **LOCAL MUNICIPALITIES**

### *Maximize Utilization of Available Grants*

- 11.8.43 Local municipalities must ensure the full and efficient utilization of all relevant grants, such as the Municipal Infrastructure Grant (MIG) and the Provincial Road Maintenance Grant (PRMG). These funds should be strategically allocated to address the most pressing infrastructure needs within the municipality.
- 11.8.44 In doing so the municipalities must establish a dedicated grant management team within the municipality responsible for overseeing the application, allocation, and monitoring of all grants. This team should ensure that funds are used in accordance with grant conditions and that no available funds are left

unspent. Regular reviews and audits should be conducted to track spending and outcomes

#### *Establish "Adopt-a-Road" Programs*

11.8.45 Local municipalities should create "Adopt-a-Road" programs where local businesses, agricultural cooperatives, and community groups can take responsibility for maintaining specific road segments. This program would foster community ownership and ensure regular maintenance without relying solely on municipal resources.

11.8.46 Launch the program by identifying key roads that could benefit from adoption. **Offer incentives such as public recognition, tax rebates, or advertising opportunities along the adopted roads** to encourage participation. Develop a straightforward agreement template outlining the responsibilities of both the municipality and the adopting entity, ensuring regular monitoring and support.

#### *Deploy Mobile Maintenance Units*

11.8.47 Local municipalities should establish mobile maintenance units equipped with essential tools and machinery to address minor road repairs quickly. These units would be tasked with responding to road issues as they arise, ensuring that small problems are fixed before they escalate.

11.8.48 Local Municipalities should also equip these mobile units with versatile tools and machinery that can handle common road issues such as potholes, erosion, and minor resurfacing. Train a team of municipal workers to operate these units and create a rapid response system where residents can report road issues via a mobile app or hotline.

#### *Pilot Sustainable Road Surfacing Techniques*

11.8.49 Local municipalities should pilot the use of sustainable and locally-sourced materials for road surfacing and repairs, such as recycled plastic, rubber, or locally available aggregates. This would not only improve road durability but also promote environmental sustainability.

- 11.8.50 Identify a few pilot sites within the municipality where these sustainable techniques can be tested. Partner with universities in the Eastern Cape or private companies specializing in sustainable materials to conduct the pilot.
- 11.8.51 Monitor the performance of these materials over time and, if successful, scale up their use across the municipality.

*Establish “Critical Route Task Forces”*

- 11.8.52 Form dedicated task forces within the municipality that **focus solely on maintaining and improving critical routes**, particularly those leading to hospitals, schools, and police stations. These task forces would operate with a mandate to ensure these roads are always in optimal condition. Each task force should consist of municipal engineers, road maintenance crews, and community representatives. Assign specific critical routes to each task force, and provide them with the resources needed to ensure these routes are prioritized for maintenance. The task forces should conduct regular inspections and be empowered to make immediate decisions on repairs.

**DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

*Strengthen Disaster Management Capacities at Local Levels*

- 11.8.53 COGTA should enhance the disaster management capacities of local municipalities by providing targeted training, resources, and technical support. This will ensure that municipalities are better prepared to manage road infrastructure during and after disasters, reducing the impact on essential services and community access.
- 11.8.54 Develop a comprehensive disaster management training program tailored for local municipalities, focusing on the integration of road infrastructure management into broader disaster response strategies. COGTA should also provide municipalities with disaster response toolkits, including guidelines for immediate road repairs, emergency communication protocols, and resource mobilization strategies during disasters.

*Facilitate Access to Disaster Relief Funding*

- 11.8.55 COGTA should streamline access to disaster relief funding for municipalities to ensure quick and effective responses to road infrastructure damage caused by natural disasters. This includes simplifying the application processes and providing pre-approval mechanisms for high-risk areas.
- 11.8.56 Establish and strengthen a fast-track disaster relief funding process for municipalities in disaster-prone areas.
- 11.8.57 COGTA should work with the National Treasury to create a contingency fund specifically for road infrastructure repairs in the event of a disaster. Additionally, provide municipalities with clear guidelines on how to apply for and utilize these funds effectively.

*Develop a Road Infrastructure Resilience Framework*

- 11.8.58 COGTA must collaborate with the Department of Transport and other relevant bodies to create a resilience framework that includes specific measures for protecting road infrastructure from flooding, landslides, and other disaster risks. COGTA should also offer grants or incentives to municipalities that adopt and implement the framework, prioritizing those in high-risk regions.

**TRANSNET**

*Accelerate Rail Infrastructure Upgrades in the Eastern Cape*

- 11.8.59 Transnet must urgently accelerate the upgrading and rehabilitation of rail infrastructure in the Eastern Cape, particularly on key routes that serve major economic sectors. This will help alleviate the heavy reliance on road transport, reduce road degradation, and support regional economic development.
- 11.8.60 Transnet must further allocate resources to fast-track the rehabilitation and modernization of these rail lines. Transnet should establish clear timelines and milestones for these projects, ensuring transparency and accountability in their execution.
- 11.8.61 Transnet should further invest in improving rail-related infrastructure at key ports in the Eastern Cape, such as the Port of Ngqura and Port Elizabeth. Enhancing

these facilities will improve the efficiency of cargo handling and strengthen the integration of rail and maritime transport.

- 11.8.62 Transnet must further assess the current state of passenger rail services in the province and identify routes with high demand or significant gaps in service. Develop a plan to improve service frequency, reliability, and safety, particularly for routes potentially connecting rural areas to major towns and cities. Transnet should also explore options for integrating rail services with other forms of public transport to create a more cohesive regional transit system.

## **SANRAL**

### *Strengthen Collaboration with the Office of the Premier for Provincial Road Management*

- 11.8.63 SANRAL should engage in more frequent and strategic collaboration with the Office of the Premier of the Eastern Cape to assume responsibility for and manage provincial roads, as permitted by law.
- 11.8.64 This partnership should focus on a targeted approach to upgrade and maintain as many provincial roads as possible, with the goal of bringing the Eastern Cape's road infrastructure on par with other provinces over the next few years.
- 11.8.65 SANRAL should initiate regular high-level meetings with the Office of the Premier to identify provincial roads that can be transitioned under SANRAL's management.
- 11.8.66 Develop a phased plan to take over these roads, prioritizing those with the greatest economic impact and connectivity potential. SANRAL should also secure additional funding and resources from national authorities to ensure that these roads are upgraded and maintained to national standards.
- 11.8.67 This plan should include a specific timeframe and measurable goals, with progress reviewed annually to ensure that the Eastern Cape receives the focused attention needed to elevate its road infrastructure to a competitive level.

## EASTERN CAPE OFFICE OF THE PREMIER

### *Urgent Fast-Tracking of SA Connect to Support Remote Learning and Reduce Dependence on Scholar Transport*

- 11.8.68 The Office of the Premier must **urgently prioritize and fast-track the implementation of the SA Connect initiative in rural areas** of the Eastern Cape.
- 11.8.69 Expanding high-speed internet access in these regions is crucial to enable **remote learning, which, in the long term, can significantly reduce the dependence on scholar transport** and strain on the DOT's budget. This initiative aligns with the broader vision of the MEC for Education in the Eastern Cape and serves as a transformative solution to the challenges of providing education in remote areas, as well as addressing wear and tear on road infrastructure. It will also address the crisis children face during floods and disastrous weather patterns.
- 11.8.70 The Office of the Premier should thus convene a task force dedicated to the rapid deployment of SA Connect infrastructure, focusing on schools and communities in the most isolated regions. Collaborate with the Department of Communications and Digital Technologies, local internet service providers, and international partners to accelerate the rollout. Additionally, develop a phased plan that initially targets areas where road infrastructure is poor and access to education is most challenging, gradually expanding coverage to all rural areas

### *Lead a Coordinated Provincial Road Infrastructure Task Force*

- 11.8.71 The Office of the Premier should **urgently streamline the regulatory approval processes, including environmental authorizations, SPLUMA procedures, tribal land acquisition, and borrow/quarry approvals, to prevent delays in road maintenance and improvement projects**. These processes have been significant obstacles and addressing these bottlenecks is crucial for timely project execution.
- 11.8.72 The Office of the Premier should establish and lead a Provincial Road Infrastructure Task Force, bringing together key stakeholders, including the



Eastern Cape Department of Transport, SANRAL, district and local municipalities, and relevant private sector partners.

11.8.73 This task force should focus on developing and implementing a comprehensive strategy to upgrade and maintain the province's road network.

11.8.74 It is recommended that the OOP convene an initial summit with all relevant stakeholders, including the Commission, to outline the reason, objectives and structure of the task force. Establish working groups within the task force focused on specific areas such as funding, project management, and community engagement. The Office of the Premier should ensure that this task force has clear targets, timelines, and accountability mechanisms, with regular progress reports provided to both the provincial government and the public.

#### *Prioritize Provincial Roads for National Management by SANRAL*

11.8.75 The Office of the Premier should actively work with SANRAL to transfer the management of key provincial roads to SANRAL's control, particularly those that are critical for economic activities and connectivity within the province.

11.8.76 This initiative should be part of a broader strategy to elevate the quality of Eastern Cape's road infrastructure.

#### *Champion Funding Mobilization for Road Infrastructure*

11.8.77 The Office of the Premier should **lead efforts to mobilize additional funding** for road infrastructure projects in the Eastern Cape. This includes advocating for increased allocations from the National Treasury, exploring alternative funding mechanisms such as public-private partnerships, and leveraging international development funds.

## **12 FINAL COMMENTS**

The South African Human Rights Commission's inquiry into the state of road infrastructure in the Eastern Cape has laid bare a stark reality—one that speaks to a legacy of inequality, deeply rooted in the apartheid era, which continues to manifest in the profound disparities between provinces. The Eastern Cape, historically marginalized, remains trapped in a cycle of underdevelopment and neglect. The backlogs in road infrastructure, compounded by insufficient funding and inadequate maintenance, have

left communities isolated, economies stunted, and the most vulnerable populations deprived of their fundamental human rights.

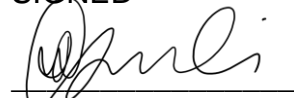
Throughout the inquiry, the Commission has been confronted with harrowing stories of communities cut off from essential services, farmers struggling to bring their produce to market, children risking their lives on dangerous, dilapidated roads just to reach school, and countless others whose daily lives are a constant struggle against the consequences of infrastructural neglect. These are not just stories of inconvenience; they are testimonies to the violation of basic human rights—the right to life, to dignity, to education, to healthcare, and to safety and security. Despite numerous policy interventions and governmental efforts, the current situation in the Eastern Cape remains dire.

The futility of past attempts, without significant, bold, and innovative strategies, suggests that the province will remain in its current state of disrepair. The Commission is unequivocally convinced that without out-of-the-box thinking, collaborative efforts across all levels of government, and a firm commitment to change, the Eastern Cape will continue to lag behind, perpetuating the cycle of poverty and inequality. Yet, this is not just a provincial issue—it is a national concern. Every stakeholder, from the national government to local municipalities, from private sector partners to civil society, must recognize that the time to act is not in some distant future, but now. It is not a question of "if" the Eastern Cape will improve, but "how soon" we can mobilize the necessary resources, political will, and collective action to make it happen.

The adoption of the Commission's recommendations is not just a step towards improving road infrastructure—it is a crucial move towards restoring the dignity and rights of the people of the Eastern Cape.

The Commission firmly believes that through the rigorous implementation of these recommendations, the tragic human rights violations unearthed through this inquiry can be addressed, and future generations can look forward to a province that is not only connected by roads but united in its commitment to equality, development, and human rights. The journey to remedy these injustices is long, but it is one that must begin immediately, with the full weight of our collective determination and resolve.

SIGNED



**Commissioner Philile Ntuli**

**Commissioner of the South African Human Rights Commission and Chairperson of the Inquiry**

DATE:

**25 October 2024**