

Towards the progressive realisation of secure housing and basic services: An evaluation of the Eastern Cape Department of Human Settlements Strategic Plan 2014- 2019

Introduction

This brief evaluates government plans towards progressively realising the right to housing. It will do so by assessing the extent to which the Eastern Cape Department of Human Settlements five year strategic plan is taking reasonable measures to realize this right over the next five years.

Progressive realization

Government budgets are central to the realization of people's rights to health, education, housing and basic services. Both insufficient prioritization and the ineffective use of resources constitute failures on the state's part in meeting its obligation to fulfill people's socio economic rights using the maximum available resources.¹ Section 26 of the Constitution states that "everyone has the right to have adequate housing." Section 26.2 states that "the State must take reasonable legislative and other measures, within its available resources to achieve the progressive realization of this right." Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) obligates states to progressively realize the rights of its people.² Article 11 of the ICESCR also recognizes the right of everyone to an adequate standard of living, including adequate housing. The South African government has not ratified the covenant despite several announcements that they will do so.³

Article 2

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures – Article 2.1 of ICESCR⁴

¹ Blyberg, A and Hofbauer, H 2014 "Progressive realization: Budget increases and meeting the obligation of progressive realization" Article 2 and Government Budgets, February 2014, www.internationalbudget.org

² Ibid

³ Studies in Poverty and Inequality Institute (SPII) "Monitoring the right to adequate housing in South Africa" August 2014, p.15

⁴ International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966

This means governments are obligated to continuously realize rights and to continuously improve the conditions of their people using the maximum available resources. It also means that people should increasingly access their rights over time even if a government has limited resources.⁵ Should there be budget cuts, governments are obligated to justify and explain the factors that prompted the budget cuts and monitor its impact on the realization of related rights. Although South Africa has not ratified the ICESCR, Chapter 2 of the South African Constitution, its Bill of Rights, obligates the State to take “reasonable legislative and other measures” to achieve the progressive realization of rights. These obligations include the requirement to introduce additional measures such as efficiencies in spending and well-conceived planning to mitigate the negative impact of budget cuts.

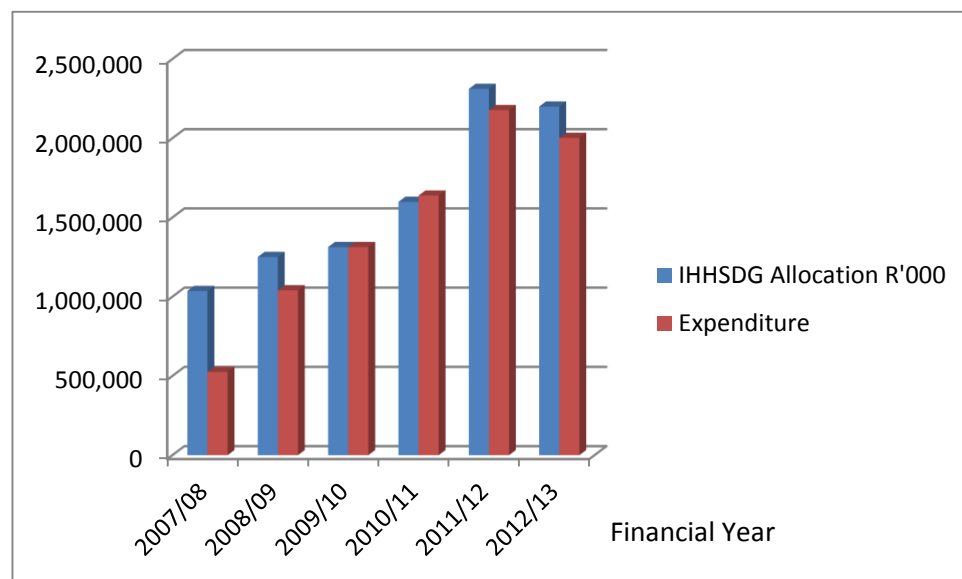
The right to housing has recently come under threat due to inefficiencies in spending and diminishing funding projected between the 2013/14 and 2016/17 financial years. I shall begin by looking at the ECDoHS inefficiencies in housing development spending. The entire housing budget consists of the equitable share budget and the conditional grant budget. The ECDoHS receive an equitable share budget from the province to enable it to perform operational functions. It is the responsibility of provincial government to decide how to distribute provincial equitable share budgets to particular government departments and programmes. The Integrated Housing and Human Settlements Development Grant (IHSDG) is allocated by the National Department of Human Settlements. The IHSDG funds the implementation of housing projects. A review of the IHSDG allocation and expenditure in Graph 1 shows the Department’s significant under-expenditure in prior years, with expenditure improvements in 2009/10 and 2010/11.⁶

entry into force 3 January 1976, in accordance with article 27 accessible at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/cescr.aspx>

⁵Blyberg, A and Hofbauer, H. “Progressive realization: What does the obligation of progressive realization in Article 2 mean?” Article 2 and Government Budgets, February 2014, www.internationalbudget.org

⁶ The IHSDG was underspent by R220 million in 2007/08, in 2008/09 by R270 million, in 2011/12 by R472 million and by R290 million in 2012/13 – Figures taken from Eastern Cape Department of Human Settlements Annual Reports 2008/09- 2012/13

Graph 1: Eastern Cape Department of Human Settlements IHSDG Allocation and Expenditure 2007/08 – 2012/13⁷



According to the ECDoS, under-expenditure is mostly a result of lack of capacity to spend, delays in procurement and poor contractor performance.⁸ These same challenges are highlighted year on year with serious implications for the Department's ability to meet targets and future allocations.⁹

In addition to the inefficiencies in spending, there was a total reduction of the Eastern Cape provincial budget by R5.1 billion over the 2013/14 - 2015/16 period.¹⁰ The provincial budget was reduced due to revisions in the equitable share formula based on high outward migration figures revealed by Census 2011 results.¹¹ For the 2014/15 financial year the provincial budget decreases in real terms by 4.65% terms and only increases nominally by 2% from R60 billion in 2013/14 to R62 billion in 2014/15.¹² The provincial budget is also anticipated to decline by an average of 1.65% over the next three years when inflation is taken into account.¹³ Whilst an additional allocation of R1.2 billion has been made available by National Treasury to assist the province in dealing with the significant budget decreases, this will only provide partial assistance and this will be discontinued in 2016/17.

Graph 2 shows consistent yearly increases of the IHSDG allocation between 2007/08 and 2011/12 financial years. For the first time since 2012/13, the IHSDG declines by 11.13% in nominal terms and by 16.31% in real

⁷ IHSDG Allocations taken from Eastern Cape Estimates of Provincial Revenue and Expenditure 2007/08 – 2012/13. IHSDG Expenditures are audited figures taken from Eastern Cape Department of Human Settlements Annual Reports 2007-08 - 2012/13.

⁸ Eastern Cape Department of Human Settlements, Annual Report 2012/13, p.101;

⁹ "Province fails to spend nearly R 1 billion over three years" Daily Dispatch article by M. Zuzile published 7 November 2013

¹⁰ Eastern Cape Estimates of Provincial Revenue and Expenditure 2013/14, p.11

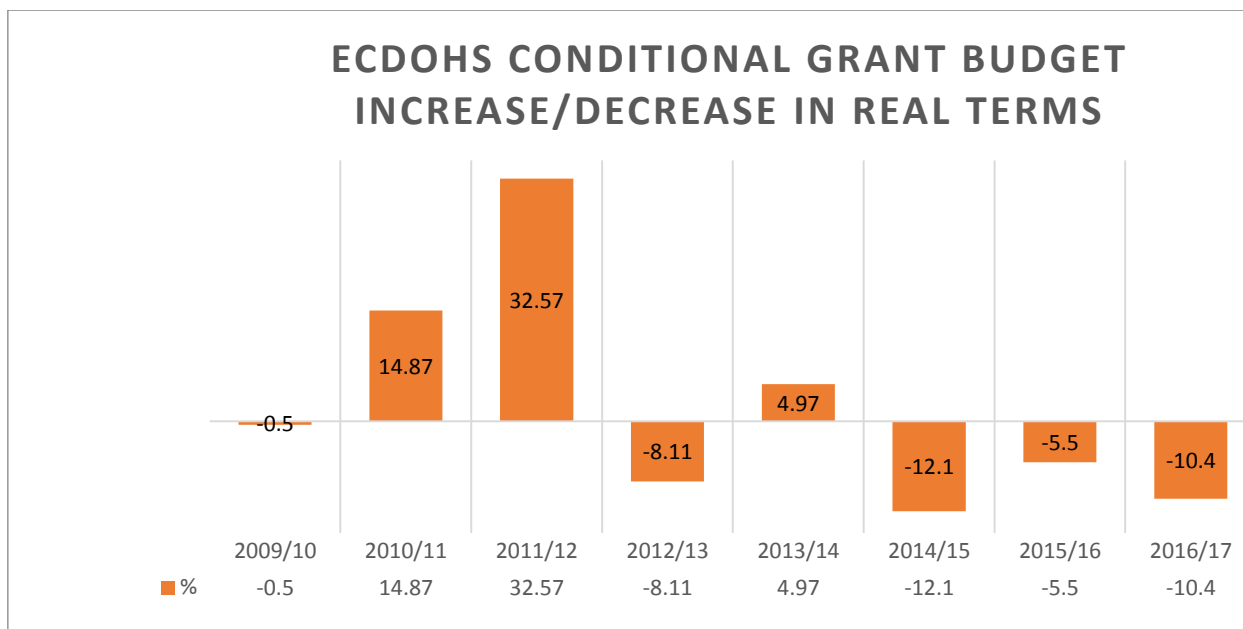
¹¹ Ibid, Eastern Cape, Limpopo, and KZN show the biggest movement of people from one province to the other. Eastern Cape shows the biggest loss of 325 078 people to Gauteng and Western Cape in search for better opportunities be it education/employment, Statistics South Africa Census 2011 "Provinces at a glance: Migration", p.20

¹² CPIX figures provided by the National Treasury were used to calculate what the real buying power will be for this financial year compared to last year (Real Change between-2013/14 and 2014/15). The CPIX figures of 5.8% in 2013/14 and 6.2% in 2014/15 (provided by National Treasury) were used in to calculate the growth of budget allocations between 2013/14 and 2014/15 and 5.9% in 2015/16 and 5.5% in 2016/17 over the MTEF in percentage term, Eastern Cape Estimates of Provincial Revenue and Expenditure 2014/15, p.xiii

¹³. Ibid

terms to R2.15 billion from the R2.42 billion 2013/14 adjusted allocation.¹⁴ The Conditional grant is projected to also decline in average real terms by 3.79% over the next 3 years. For the 2014/15 financial year the Eastern Cape Department of Human Settlements (ECDoHS) received a total budget allocation of R2.48 billion.¹⁵ This is a 17% budget decrease from the R2.83 billion 2013/14 Adjusted Budget when inflation is taken into account.¹⁶

Graph 2: Growth of EC Integrated Housing Human Settlements Development Grant, 2009/10 - 2016/17-allocations in real term 2009/10 – 2016/17¹⁷



In addition, there was a total reduction of the Eastern Cape provincial resource envelope of R5.1 billion which will be experienced over the 2013/14 - 2015/16 period.¹⁸

Housing output both nationally and provincially has been on the decline over the last 5 years. Table 1 below shows that in the last 10 years, the Department of Human Settlements countrywide has delivered close to 2 million housing units. The latest official statistics from National Department on housing delivery between 1994 and 2012 is 2.6 million units.¹⁹ The Table also shows that housing delivery between the 2003/04-2007/08 is double the housing output produced in the last five years.

¹⁴ Eastern Cape Overview and Estimates of Provincial Expenditure 2014/15, p.543 & p.545

¹⁵ Eastern Cape Overview and Estimates of Provincial Expenditure 2014/15, p.545

¹⁶ Ibid, The CPIX figures of 5.8% in 2013/14 and 6.2% in 2014/15 (provided by National Treasury) were used in to calculate the growth of budget allocations between 2013/14 and 2014/15 and over the MTEF in percentage term.

¹⁷ This graph shows the budget increase/decrease for each financial year compared to the previous financial year. ie the 2009/10 conditional grant budget decreased by 0.5% from 2008/09 and in 2010/11 the budget increased by 14% from 2009/10 etc..., budget figures were taken from Eastern Cape Overview and Estimates of Provincial Expenditure 2009/10 -2014/15. The figures for 2009/10, 2010/11, 2011/12 , 2012/13 and 2013/14 are real calculations between Main conditional grant Appropriation figures for that financial year and Adjusted Appropriation figures from the previous year using NT CPI data for the financial year under review. The outer years (2015/16 – 2016/17) are MTEF projections (projected allocations) Are real figures which factors in inflation. CPIX figures provided by the National Treasury were used to calculate what the real buying power will be between 2015/16 and 2016/17. The CPIX figures of 5.8%; 6.2%;5.9%;5.5% respectively (provided by National Treasury) were used to calculate the growth of budget allocations over the MTEF in real term/value.

¹⁸ Eastern Cape Estimates of Provincial Revenue and Expenditure 2013/14, p.11

¹⁹ The National Department of Human Settlements Progress Report on creation of human settlements delivered on 13 Nov 2012 at the National Assembly. Report accessible at <http://www.pmg.org.za/report/20121113-update-department-human-settlements-human-settlements-completed-both>

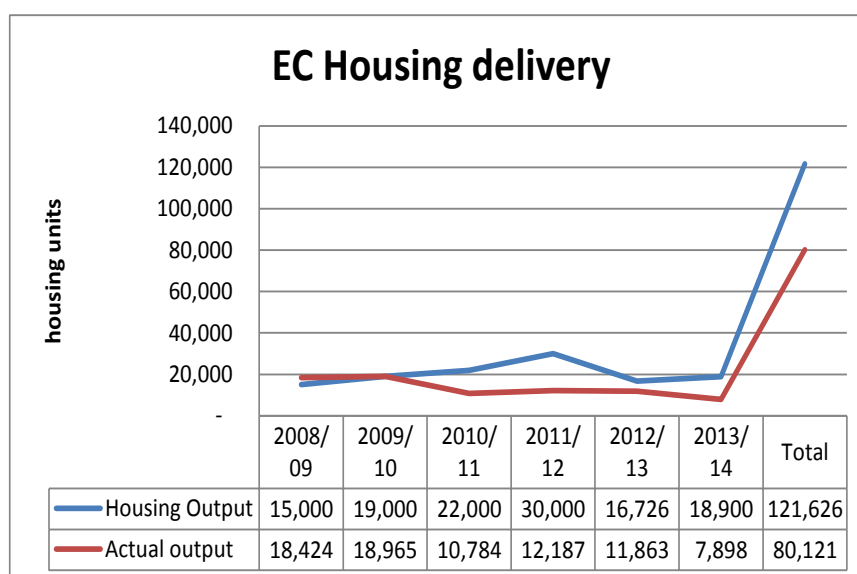
Table 1: Nationwide housing delivery over the last 10 years²⁰

Housing output	2003/04-2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	Total 2008/09-2012/13
Eastern Cape	133,678	18,424	18,965	10,784	14,498	16,726	79,397
Free State	85,873	13,854	12,526	15,931	25,000	14,015	81,326
Gauteng	343,012	40,288	32,407	25,876	21,496	29,884	149,951
Kwazulu-Natal	179,035	36,068	23,587	19,873	25,987	43,000	148,515
Limpopo	121,716	16,868	18,500	15,555	13,410	12,000	76,333
Mpumalanga	81,438	17,626	8,204	9,860	7,702	10,985	54,377
Northern Cape	28,618	4,914	3,455	3,077	3,683	2,704	17,833
North West	90,953	15,912	16,557	16,816	16,333	10,932	76,550
Western Cape	107,543	31,011	16,566	11,860	11,065	15,567	86,069
Total	1,171,866	194,965	150,767	129,632	139,174	155,813	770,351

New Human Settlements Minister Lindiwe Sisulu confirms that there has been “a 25 to 30 percent decline in the delivery of housing in the past five years” but she fails to provide reasons for the decline other than “because of problems in the pipeline”.²¹

The last 5 years has seen a decrease in the delivery of housing units particularly in provinces such as the Eastern Cape, despite a considerable provincial housing backlog of 600 000 units.²²

Graph 3: EC Planned Housing vs Actual Housing Output²³



²⁰ Housing delivery figures from 2003/04-2007/08 were refer to houses completed both nationally and provincially based on research data accumulated by the Socio Economic Rights Institute of South Africa, 2009. Housing delivery figures from 2008/09 -2012/13 refer to houses completed and in the process of completion both nationally and provincially based on provincial Housing and Human Settlements Annual Reports and Budget Vote Speeches between the 2008/09 and 2012/13 financial years.

²¹ The South African Housing Foundatiion (SAHF) Newsletter August 2014, Vol.10. Issue No. 8, p.2

²² Department of Human Settlements Progress Report on creation of human settlements’ delivered on 13 Nov 2012 at the National Assembly. Report accessible at <http://www.pmg.org.za/report/20121113-update-department-human-settlements-human-settlements-completed-both->; Eastern Cape Department of Human Settlements Annual Performance Plan 2014/15, p.13.

²³ Audited Housing output figures have been taken from Eastern Cape Department of Human Settlements Annual Report between 2008/09 – 2012/13. 2013/14 housing output figures are the number of completed housing units as the end of the 3rd quarter of the 2013/14 financial year taken from Estimates of Provincial Revenue and Expenditure 2014/15, p.541.

For the 2014/15 financial year, the ECDoHS has planned to deliver 12 979 housing units²⁴ which is reduction of 5 921 units from the 2013/14 planned target but it is an improvement from the 2012/13 target. According to the Department, targets are being revised “downwards” due to the “potential risk of not achieving the desired outcome.”²⁵ Over the MTEF, the Department plans to provide a total of 41 560 units.²⁶ The ECDoHS plans fail to make clear how it will be able to meet its housing targets against a declining budget. It is important that the ECDoHS sets realistic targets in line with its projected budget allocations.

According to the Eastern Cape Department of Human Settlements there are a number of factors that have contributed towards a low housing output, including factors such as poor workmanship, delays in procurement, poor municipal planning, insufficient funds for bulk infrastructure and capacity challenges resulting in delays in housing delivery.²⁷ These challenges were confirmed by a study conducted by the Human Science Research Council in 2010 on backlog trends within the Eastern Cape.²⁸ As of the end of the fourth quarter of the 2012/13 financial year, the ECDoHS blocked 20 projects as a result of insufficient bulk infrastructure funding of R2.1 billion.²⁹ The pressure of escalating construction costs on housing budgets is one of the major contributing factors to slow housing delivery, not only in the Eastern Cape but nationwide.³⁰ An inadequate equitable share allocation to the ECDoHS has hampered its efforts to finance delivery capacity for several years.³¹ Table 2 below shows that the ECDoHS equitable share budget projections grow by 7% in nominal terms over the next 3 years,³² but when inflation is taken into account this translates into negligible (1%) real increases. The ECDoHS predicts that its performance over the medium term will be constrained by declining housing development and inadequate bulk infrastructure.³³

²⁴ Estimates of Provincial Revenue and Expenditure 2014/15, p.542

²⁵ Ibid

²⁶ Eastern Cape Department of Human Settlements Annual Performance Plan 2014/15, p.45

²⁷ Eastern Cape Department of Human Settlements Annual Report 2012/13, p.150 -160

²⁸ Human Sciences Research Council “A rapid verification study on the informal settlements and backyard shacks’ backlog and trends within the Eastern Cape” Completed April 2010, p.93

²⁹ Eastern Cape Estimates of Provincial Revenue and Expenditure 2013/14, p.654

³⁰ Socio Economic Rights Institute of South Africa (SERI), A Resource Guide to Housing in South Africa 1994-2010: Legislation, Policy, Programmes and Practice, p.8; p.32; Minister of Human Settlements 2011/12 Budget Vote Speech delivered dated 19 April 2011; Sexwale: Housing for poor is not sustainable by A. Majavu. The Sowetan Live, p.1; Human Sciences Research Council “A rapid verification study on the informal settlements and backyard shacks’ backlog and trends within the Eastern Cape” Completed April 2010, p.99

³¹ Eastern Cape Department of Human Settlements Annual Report 2012/13, p.26

³² Eastern Cape Department of Human Settlements Estimates of Provincial Revenue and Expenditure, p.542

³³ Eastern Cape Department of Human Settlements Strategic Plan 2014 – 2019, p.3

Table 2: Eastern Cape Department of Human Settlements Equitable Share and Conditional Grant allocations, 2010/11 to 2016/17³⁴

Conditional Grant Allocation (R' 000)	Outcome			Main Appropriation 2013/2014	Adjusted Appropriation 2013/14	Revised Estimate 2013/14	Medium-term estimate				Real Change between 2013/14 and 2014/15	Real Average Growth over MTEF
	Audited 2010/11	Audited 2011/12	Audited 2012/13				% change from Adjusted Appropriation					
							2014/15	on 2013/14	2015/16	2016/17		
Equitable Share	209,286	243,945	281,677	303,277	303,277	304,237	325,730	7.40	332,954	350,945	1.14	-1.18
Housing Disaster Relief Grant		56,700	92,853	94,172	94,172	76,453		-100.00			-100.00	0.00
(IHSDG)	1,638,146	2,177,676	2,200,006	2,429,631	2,429,631	2,296,695	2,159,218	-11.13	1,929,157	2,147,265	-16.31	-3.79
Expanded Public Works Programme Incentive Grant				3,000	3,000	3,000	2,654	-11.53			-16.69	0.00
Total payments and estimates	1,847,432	2,478,321	2,574,536	2,830,080	2,830,080	2,680,385	2,487,602	-12.10	2,262,111	2,498,210	-17.22	-3.47

The provincial budget for eradicating backlogs and informal settlements is projected to decline over the MTEF. It is the responsibility of the Department to safe guard this right and ensure its progressive realisation.. Amidst these funding cuts, the ECDoHS is obligated to find other reasonable measures within its available resources to meet its constitutional mandate.

In terms of the provisions of section 1 (vi) of the Housing Act, 1997 (Act No. 107 of 1997) “housing development” means:

The establishment and maintenance of habitable, stable and sustainable public and private residential environments to ensure viable households and communities in areas allowing convenient access to economic opportunities, and to health, educational and social amenities by citizens and permanent residents of the Republic

Given the current budget constraints it is crucial that the Department of Human Settlements prioritise the most vulnerable and destitute of communities that require housing. It will also require that alternative housing interventions beyond the current contract driven RDP housing development processes be introduced over the short term. Some of these are considered and suggested below

Strategic interventions

The Department has committed to explore the possibility of introducing alternative technology methods and the use of renewable energy in housing design.³⁵ It is encouraging that the Department is considering these strategies

³⁴ Eastern Cape Overview and Estimates of Provincial Expenditure 2014/15 p.543 & p.545; The Main Appropriation figures for 2013/14 represent the initial allocations for that financial year while the Adjusted Appropriation figures are the revised allocations subsequent to the tabling of the Adjusted Appropriation Act. The Revised Estimates are a combination of un-audited incurred expenditure and projected expenditure (what the Department thinks it will spend by the end of the 2013/14 financial year). All figures are nominal (they do not factor in the effect of inflation on buying power), with the exception of the second to last Real Change column. The percentages in this column were calculated using real figures. CPIX figures provided by the National Treasury were used to calculate what the real buying power will be for this financial year compared to last year (Real Change between-2013/14 and 2014/15). The CPIX figures (provided by National Treasury) were also used in the last column to calculate the growth of budget allocations over the MTEF in percentage term. The budget allocations used to calculate average growth over MTEF are also real (including inflation).

in light of its long term resource constraints. The ECDHS proposed strategic interventions should include innovative housing methods which require cheaper (over the long term) and more sustainable ways of supplying energy and water. This can be achieved by mainstreaming energy efficient technology and renewable energy in housing design and construction. Renewable energy is working reliably in other countries such as Germany and Portugal which are currently receiving more than 25% of their electricity from renewable energy.³⁶

For water and sanitation, the use of rain and grey water harvesting techniques in the form of rain water tanks and waterless toilets conserves water and can be an efficient use of funds. Bulk infrastructure costs are among the largest expenses and potential obstacle to the Department's ability to progressively realize the right to housing and basic services. By introducing innovative and efficient methods of supplying energy, this could significantly assist the ECDHS by reducing costs related to bulk infrastructure.³⁷ It could also lead to the unblocking of many housing projects and reduce the effects of bulk infrastructure on global warming and climate change. South Africa is among the best placed countries in the world for stable solar radiations, making the use of solar energy in South Africa viable and reliable.³⁸

For the next 5 years, The Department should plan a gradual transition to incorporating renewable energy as a blueprint of its housing typology design, decreasing its reliance on bulk infrastructure and increasing its housing output whilst creating truly sustainable communities that reduce the negative effects housing development inevitably have on the environment.

The Eastern Cape Province has just recently completed and opened a wind farm located between Jeffrey's Bay and Humansdorp. It is anticipated that it will generate up to 138MW of electricity. It is said to be one of the biggest wind farms in Africa and was built by the British Company *Globeleq*.³⁹ The ECDHS is encouraged to make use of such opportunities and collaboratively plan with *Globeleq* and the provincial government on how to incorporate this renewable energy into housing development. The construction of a wind farm demonstrates the great potential for the Eastern Cape to support and develop the growth of the renewable energy industry in South Africa.

The South African government is proposing to introduce a carbon tax to reduce emissions and enable the transition to a low carbon economy.⁴⁰ A major concern however is the effect such a tax will have on the cost of energy to the South African economy, and the consequent risk of increased inflation, reduced international competitiveness and reductions in the welfare of poorer households.⁴¹ There are many important issues government must consider to fully develop a suitable policy that will reduce emissions but still encourage economic growth, and it is perhaps not surprising that the implementation date of the carbon tax was recently

³⁵ Eastern Cape Department of Human Settlements Policy and Budget Speech 2014/15

³⁶ "Yale Environment 360: Renewable energy generated" a publication of the Yale School of Forestry & Environmental Studies accessible at http://e360.yale.edu/digest/green_sources_meet_70_percent_of_portugal_electricity_in_quarter/3817/

³⁷ Renewable energy is cheaper than coal and nuclear power – a unit of electricity from Eskom's new coal plants will cost 97c while a unit of electricity from renewable energy will cost 97c. Unlike coal/nuclear fired power plants which require power plants to generate electricity, there no input costs for wind and solar energy as they are easily and freely accessible and constantly available. <http://mg.co.za/article/2012-08-24-00-eskom-grilled-on-power-price;> Aitor Ciarreta, Maria Paz Espinosa, Cristina Pizarro-Irizar. **Is green energy expensive? Empirical evidence from the Spanish electricity market.** *Energy Policy*, 2014; Vol.69, p.205

³⁸ [http://www.greenpeace.org/africa/en/campaigns/Climate-change/renewable-energy-myths/;](http://www.greenpeace.org/africa/en/campaigns/Climate-change/renewable-energy-myths/) South African Housing Foundation Newsletter August 2014, Vol.10, Issue No.8

³⁹ The South African Housing Foundation Newsletter August 2014, Vol.10, Issue No.8, p.1

⁴⁰ Carbon Tax policy paper National Treasury Republic of South Africa May 2013 accessible at <http://www.treasury.gov.za/public%20comments/Carbon%20Tax%20Policy%20Paper%202013.pdf>

⁴¹ "How South Africa's Carbon tax may affect business" <http://www.african-utility-week.com/Pages/Detail/6366> Alton, T, Channing, A, Davies, R et al., 2012. *The economic implications of introducing carbon taxes in South Africa.* UNU-WIDER Working Paper No. 2012/46, May 2012. National Treasury and United Nations University–World Institute for Development Economics Research. Available at: http://www.wider.unu.edu/publications/working-papers/2012/en_GB/wp2012-046

postponed by a year, to 2016, to allow further refinement of the tax design. In the mean time the ECDoHS is encouraged to explore ways in which it can take advantage of increasingly available and economically viable renewable energy options in the province within its policies and implementation structures in its next strategic plan. .

The Eastern Cape is lagging behind other provinces with regard to introducing sustainable and cost effective alternative building methods. The Free State Department of Human Settlements has started installing solar water geysers as part of its housing delivery, which will help reduce energy costs.⁴² The KZN Department of Human Settlements has come up with an innovative way of incorporating water harvesting in the Rural Housing delivery Programme. This addresses the issue of water shortages in rural areas as well as cutting costs of basic services through the installation of water tanks.⁴³ The Cape Town Department of Human Settlements plans to build 1 951 housing units in Delft using alternative building materials (ABTs), which are more environmentally friendly.⁴⁴ ABTs will ensure the homes stay warmer in winter, experience less damp and have reduced energy costs. Other green building interventions introduced for low cost housing include the use of compact fluorescent light bulbs, insulated ceilings with a thermal resistance to assist in the warming and cooling of the houses.⁴⁵

Planting trees and creating food gardens have also been introduced to improve health and safety whilst contributing to the transfer of skills to beneficiaries.⁴⁶ The Province needs to provide greater attention to the resource efficiency of the current low cost housing projects. Substantial savings in water and electricity construction could be made and the quality of life for income residents improved if low cost houses could be constructed using renewable energy and sustainable materials and building interventions like those currently being implemented in other Provinces. It is encouraging that the ECDoHS has undertaken to introduce water tanks, planting of trees and grass in the homes of beneficiaries, vegetable gardens by partnering with the Department of Rural Development & Agrarian Reform on a food security program which aims to alleviate poverty in newly developed residential settlements.⁴⁷

Another way of ensuring the progressive realisation of the right to housing access is by cutting housing development costs through diversification of housing products. The National Development Plan (NDP) has put forward a plan to eradicate informal settlements, build integrated urban settlements and fast track housing provision by providing diversity in housing products and finance options.⁴⁸ As part of the National Development Plan to create new, alternative and more cost effective model to meet demand provincially and nationally, The National Department of Human Settlements (NDoHS) has identified expanding social and rental housing opportunities as an alternative solution to the housing problem.⁴⁹ Social housing provides for a range of social housing products to meet various spatial and affordability requirements. Social housing products include multi-level flat or apartment options for higher income groups earning between R3500 – R7500 which are rolled out and managed under the “Social housing Programme” by social housing institutions (SHIs). The Social Housing Act was introduced in 2008 to provide a legal framework for the implementation of the Social Housing Policy.⁵⁰ The

⁴² Free State State of the Province Address 2012/13

⁴³ KZN Budget Vote Speech 2012/13

⁴⁴ www.urbanearth.co.za

⁴⁵ www.urbanearth.co.za

⁴⁶ Ibid

⁴⁷ Eastern Cape Department of Human Settlements Policy and Budget Speech 2014/15 delivered 3 July 2014, p.11

⁴⁸ National Development Plan 2030: Our future make it work, p.35-38

⁴⁹ Human Settlement 2010/11 Budget Speech delivered by Minister Tokyo Sexwale on 21 April 2010

⁵⁰ Social Housing Policy for South Africa www.nhfc.co.za/files/Social_Housing_Policy_May_2005.pdf

Low income persons are broadly defined as those with monthly household income of between R 1500 –R7500. An accredited housing institution is a legal entity established with the primary objective of developing/and or managing housing stock. A Social Housing Regulatory Authority (SHRA) will be established to deal with the accreditation of Social Housing Institutions (SHIs).

National Housing Code of 2009 has incorporated social housing as an alternative option to address the various housing needs of the South African population.⁵¹

In 2010, then Minister of Human Settlements, Mr T. Sexwale, announced the introduction of a new public rental housing programme called the Community Residential Unit programme (CRU) which will provide rental tenure for persons with an income of between R800 and R 3 500 per month.⁵² According to the National Housing Code, CRU aims to facilitate the provision of secure, decent and affordable rental accommodation for poor households and individuals currently renting in overcrowded, sub-standard but inexpensive accommodation in backyards and informal settlements.⁵³ The programme will also support the upgrading of dilapidated public buildings or hostels into communal rental accommodation.⁵⁴

According to the data provided in the ECDHS Strategic Plan, 95 983 households live in informal dwellings (shacks/squatter settlement)⁵⁵. It is unfortunate that the ECDHS's latest Strategic Plan and Annual Performance Plan (APP) fails to shed more light on the location of the informal settlements. A series of studies on informal settlements in the Eastern Cape conducted by the Human Science Research Council (HSRC) and Fort Hare Institute of Social and Economic Research (FHISER)⁵⁶ demonstrates migration trends from rural areas into small towns across the province, showing steady flows into urban centres like Buffalo City Municipality (BCM) and Nelson Mandela Bay Municipality (NMBM) in search for employment and better services. These households could greatly benefit from the CRU housing projects. However, since the introduction of social rental projects in 2010/11, a total of 2 036 social rental units have been delivered accommodating beneficiaries earning between R 1500 and R 7500 per month, and not a single CRU unit has been delivered.⁵⁷ Delivery of public rental housing has been slow particularly in the Eastern Cape. The ECDHS plans to deliver only 1 443 social housing units and 350 CRU units over the MTEF.

According to the 2011/12 Departmental Annual Report, delays in signing of funding agreements with the Social Housing Regulatory Authority (SHRA) and delays in the finalization of feasibility studies and town planning are preventing rental units from being completed.⁵⁸ It is also questionable if the ECDHS is itself in any position, capacity-wise, to manage public rental stock. The Housing Asset Management Programme whose purpose is to facilitate, coordinate and manage the implementation of social rental housing is the smallest of all the programmes in terms of capacity and budget allocation.⁵⁹

The Housing Asset Management programme budget has decreased from a nominal adjusted budget allocation of R 10 million in 2013/14 to R9.8 million in 2014/15.⁶⁰ A nominal projected budget growth of R865 000 is expected over the MTEF.⁶¹ According to Director of Social Rental Housing "we are likely to outsource often when we have CRU projects" due to the limited experience the Department has as developers.⁶² A public private partnership in

⁵¹ Breaking New Ground: A Comprehensive Plan for the development of Sustainable Human Settlements 2004; National Housing Code 2007 (amended in 2009), Part 1 of the Housing Code

⁵² Ibid

⁵³ The National Housing Code 2007, Part 1, Section 7 "Community Residential Units Programme", p.23

⁵⁴ Ibid

⁵⁵ Eastern Cape Department of Human Settlements Strategic Plan 2014 – 2019, p.15

⁵⁶ "A rapid verification study on the Informal Settlements and Backyard Shacks Backlog and Trends within the Eastern Cape" study conducted by the HSRC and completed in April 2010, p.72; Rapid Eastern Cape Provincial Assessment of service delivery and socio economic survey, 2006, University of Fort Hare, East London, p.86

⁵⁷ Eastern Cape Department of Human Settlements Annual Performance Plan 2014/15, p.49

⁵⁸ Ibid

⁵⁹ Eastern Cape Provincial Treasury Estimates of Provincial Revenue and Expenditure 2014/15, p.544

⁶⁰ Eastern Cape Provincial Treasury Estimates of Provincial Revenue and Expenditure 2014/15, p.544

⁶¹ Ibid

⁶² PSAM Interview with Director of Social and Rental Housing Programme Eastern Cape Department of Human Settlements, 6 Sept 2013

managing the CRU would be essential given that neither the department nor the municipality are in a strong position to implement and/or manage the CRU projects.⁶³

Demand for rental accommodation is expected to rise in these urban areas. According to the Social Housing Foundation (SHF) there is significant unmet demand in the Eastern Cape for affordable rental housing delivery in key urban centres, particularly for households in the income band of between R1500 and R 3500 a month.⁶⁴ At the rate that the ECDoS plans to deliver public rental stock, it will not be adequate to meet demand. There is a need for the ECDoS to attract partnerships with the private sector to facilitate higher outputs of public rental stock, particularly for CRU products.

Diversification of housing products allows for multiple role players to play a part in providing housing products and as such helps to cut costs. The NDP emphasises effective partnerships between the Department, municipalities, local businesses and civic associations to help reduce the funding burden and backlog facing the Department. Human Settlements Minister Lindiwe Sisulu is planning on introducing incentives to encourage the private sector to contribute in the provision of social housing as part of their corporate social responsibility obligations. The ECDoS as part of its strategic plan is to enhance its stakeholder mobilization programme in particular the private sector to improve the delivery of social and rental housing in cities and towns but fails to articulate how.

Private investments are based on incentives. One way the ECDoS can encourage private investment in the housing market is through tax benefits.⁶⁵ According to the Social Housing Policy, Social Housing Institutions may utilise a range of income tax exemptions and/or favourable tax provisions.⁶⁶ The Social Housing Act defines SHIs as “an institution accredited or provisionally accredited under this Act to carry on the business of providing rental or co-operative housing options.”⁶⁷ The policy also states that rental housing services are exempt from VAT. Furthermore the policy provides leeway and flexibility for provincial and local governments to provide additional tax benefits.⁶⁸ Local Municipalities should also be encouraged to provide additional local tax benefits to encourage private investment in the public rental housing market.

If attracting private investment and partnerships in social housing is central to the national and provincial Department to overcome funding constraints and accelerate housing delivery, there are number of concerns that the Department is going to have to address. The first is the strict criteria outlined in the Social Housing policy that states that social housing projects can only be rolled out in restructured zones.⁶⁹ Based on this strict criteria, very specific areas in metros and larger cities have been categorised as urban restructuring zones. In the Eastern Cape, only Buffalo City Metro and Nelson Mandela Bay Metro have been identified as restructuring zones and as a result social rental housing programme can only be rolled out in these two areas.⁷⁰ Areas outside of these metros must then apply for approval from National Department in order to obtain permission for the area to be identified as a restructuring zone for the provincial department to roll out the social rental housing programme.

⁶⁴ Social Housing Foundation (SHF), 2009: “The Rental Market in South Africa – Eastern Cape Province”, prepared by Eighty 20, for the Social Housing Foundation, Johannesburg

⁶⁵ Maas, S. 2013 “The South African Social Housing Sector: A critical comparative analysis” in the South African Journal on Human Rights , Vol 29: Part 3 p.585

⁶⁶ Social and Rental Interventions: Social Housing Policy | Part 3 (Of The National Housing Code) | 2009, Section 9.5 “Tax incentives for SHIs” p.79

⁶⁷ Social Housing Act No 16 of 2008, Section 1

⁶⁸ Ibid

⁶⁹ Social Housing Regulatory Authority (SAHRA) “Urban Development Zones: Restructuring Zones” accessible at <http://www.shra.org.za/resource-centre/shf-archives/63-static/udz/90-urban-development-zones>; Section 26C of the Local Government Municipal Systems Act of 2000

⁷⁰PSAM Interview with Director of Social and Rental Housing Programme Eastern Cape Department of Human Settlements, 6 Sept 2013

Unfortunately, according to the Social Rental Housing Programme Director “it is taking time for the national zones to get approval for areas that are not metros or secondary towns.”⁷¹ A lack of information on availability of state land combined with insufficient land rezoned for restructuring urban areas makes it a challenge for the roll out of social housing projects in the Eastern Cape. The strict regulations concerning rezoned land and the roll out of social housing projects is problematic as the primary objective of social housing becomes less about addressing housing backlog or facilitating the right to access adequate housing and more about restructuring or rezoning urban areas. The ECDoHS needs to motivate to the NDoHS for the inclusion of small towns/semi –urban areas as restructured zones for the rapid development of Social Rental Housing in the province to allow local real estate agents and private developers access into public rental industry and relying less on big investors such as mining companies which are confined to certain geographical areas and SHIs which are currently few and over stretched.

Due to the strict regulations in the Social Housing policy there is hardly a profit margin to be gained in a public private partnership venture in the public rental housing market. Section 13 of the Social Housing Act stipulates that all institutions wishing to undertake social housing must apply to the Social Housing Regulatory Authority (SHRA) for accreditation.⁷² In order for accreditation to be awarded, it must be an institution/private developer acceptable to SHRA and once accredited the institution has to comply with all the provisions of the Act.⁷³ Although ownership of housing stock is under SHI or the private developer, the acquisition, renovation, selling and management of social housing property by SHIs and private developers is regulated extensively for a period of 15 years.⁷⁴ SHIs and private developers must seek permission from SHRA before selling their property.⁷⁵ In the case of Community Residential Units, the units can never be sold or privately owned, only publicly owned.⁷⁶ In addition to having property rights restricted, private institutions or developers cannot generate profits due to the restrictions also imposed on rentals.

Furthermore government controls the selection of tenants and evictions through the government rental tribunal. It is also up to the private institutions to conduct a feasibility study and provide evidence of demand and capacity to meet the demand before a grant can be awarded by the state.⁷⁷ Given the expectations, the number of regulations and lack of profit margin in the social housing sector, the likelihood for private developers entering the social housing market is very slim. The current state of Social Rental Housing policy does not favour private sector involvement in Social Rental Housing. Having said that, the support of the private sector is still very essential in the provision of public rental housing given the limited government capacity and resources. It will require both the public and private institutions simultaneously working together to successfully address the housing backlog

Another criteria essential for attracting private investment is economic growth and unfortunately investment spending in South Africa has dropped significantly due to slow economic growth.⁷⁸ Strong economic growth is required to persuade private sector investment in infrastructure development.⁷⁹ The province’s economic growth is not only an important factor in attracting private investment but also in determining the number of households

⁷¹ Ibid,p.8

⁷² Social Housing Act No.16 of 2008, http://uscdn.creamermedia.co.za/assets/articles/attachments/17837_a16-2008.pdf

⁷³ Section 15 of the Social Housing Act No.16 of 2008

⁷⁴ PSAM Interview with Director of Social and Rental Housing Programme Eastern Cape Department of Human Settlements, 6 Sept 2013

⁷⁵ Section 14 (i) Social Housing Act No.16 of 2008

⁷⁶ SOCIAL AND RENTAL INTERVENTIONS: SOCIAL HOUSING POLICY | PART 3 (OF THE NATIONAL HOUSING CODE) | 2009, Section 7.3.2.2 of the Social Housing Policy 2009

⁷⁷ SOCIAL AND RENTAL INTERVENTIONS: SOCIAL HOUSING POLICY | PART 3 (OF THE NATIONAL HOUSING CODE) | 2009, Section 7.3.2.2 of the Social Housing Policy 2009 accessible at http://www.dhs.gov.za/sites/default/files/documents/national_housing_2009/6_Social_Rental_Interventions/3%20Vol%206%20Social%20Housing%20Policy.pdf

⁷⁸ Financial Mail Annual Report June 20 2014 “ Infrastructure 2014: Low spend, Low growth”, p.4 www.financialmail.co.za

⁷⁹ Ibid

migrating to centres of employment in search of better opportunities. The on-going influx of people toward urban areas in search of employment remains a key driver of housing demand and the challenge of growing informal settlements. Given the growing housing demand and the declining human settlements budget, the key to addressing the housing backlog is empowering citizens through creating jobs and a strong and stable economic environment so as to empower citizens to build their own homes and communities. Creating a thriving economy which allows over a time for citizens to take over the housing responsibility from government is a much sustainable solution for the long term.

Economic growth brings about job creation. Provincial growth in the Eastern Cape has been slow over the last 10 - 15 years and the condition is projected to continue into the future.⁸⁰ Unemployment remains a significant challenge nationally and within province. The latest provincial unemployment statistics show that unemployment rate in the Eastern Cape is at 37.4%⁸¹ which is above the national average at 29%.⁸² The province indicates serious under development and poverty to be scattered across the province but mostly located in the rural areas of the Eastern Cape.⁸³ A strong provincial economy attracting investment and creating jobs lies at the heart of progressively realising the right to housing.

Housing corruption

Preventing corruption and recovering funds lost to the Department after being defrauded by the private sector and public officials plays an important part in effectively and efficiently using resources. The President announced that investigations into construction companies shows improper conduct by large construction companies on corruption tender fraud and price fixing in the infrastructure programme in his State of the Nation address.⁸⁴ He also urged government departments to investigate allegations of corruption, fraud or maladministration.⁸⁵ Currently the ECDoS have suspended departmental officials for allegedly defrauding the Department of R32 million for conniving with contractors to approve poorly built houses.⁸⁶ The Department plans to spend R 2, 3 million fixing 2 721 defective houses.⁸⁷

On the 20th of February 2013, Public Protector Thuli Madonsela presented findings to the National Assembly on a nationwide investigation into complaints her office received on RDP homes since the 2010/11 financial year.⁸⁸ Her investigation revealed shoddy workmanship by contractors and the Department of Human Settlements' failure to ensure housing quality. Madonsela's investigation reveals that the evidence of low cost houses falling apart has increased over time.⁸⁹ Each year government loses millions in rectification and double handling. Given the decline in the Human Settlements budget over the MTEF, Departments cannot continue to spend money on rectifying poorly built houses. According to the Public Protector's findings, problems surrounding the poor construction of houses are mainly due to housing officials and inspectors abdicating their responsibilities and failure by departments to work with the NHBC on housing projects.⁹⁰ Madonsela also warned of government losing billions

⁸⁰ Estimates of Provincial Revenue and Expenditure (EPRE) 2013/14, p.19

⁸¹ Eastern Cape Department of Human Settlements Annual Performance Plan 2014 -2019, p.15

⁸² Ibid, p.18

⁸³ "A rapid verification study on the informal settlements ad backyard shacks backlog and trends within the Eastern Cape" report by Human Science Research Council 2010, p. 26

⁸⁴ State of the Nation Address 2013/14 by President J. Zuma delivered on 14 February 2013

⁸⁵ Ibid

⁸⁶ "Officials suspended as Hawks probe housing fraud" news article by M. Zuzile 25 Aug 2014 www.bdlive.co.za, Eastern Cape Human Settlements Policy and Budget Speech 2014/15

⁸⁷ Eastern Cape Department of Human Settlements Operational Plan 2014/15, p.55

⁸⁸ <http://www.pmg.org.za/report/20130220-briefing-human-settlements-matters-human-rights-commission-and-public>

⁸⁹ <http://www.pmg.org.za/report/20130220-briefing-human-settlements-matters-human-rights-commission-and-public>

⁹⁰ Ibid

due to corrupt construction companies.⁹¹ The ECDoHS plans do not show/report on the number of houses they plan to register with the NHBRC. The plans are also weak on the implementation of fraud prevention strategies and monitoring of housing projects.⁹² The most recent Eastern Cape Audit findings revealed that public officials are negligent when it comes to complying with PFMA and SCM legislation and regulations.⁹³ A lack of monitoring and enforcement of applicable legislation and policies coupled with a lack of enforcement of consequences was found across all government departments and state entities.⁹⁴ The Head of Department (HoD) must (also obliged by the PFMA) take all the necessary steps to prevent irregular and fruitless expenditure as well as take disciplinary measures against officials who are not complying with all legal and regulatory provisions outlined in the PFMA.⁹⁵ The HoD also needs to recover all monies stolen by employees who have been found to have defrauded the Department. By recovering this money, it can make a significant difference to the Human Settlements budget and its ability to provide more houses than what the budget currently allows.

Conclusion

Budgets are the main tool by which governments can help realize people's rights to access adequate health care, education, basic services such as water, sanitation and decent housing. Due to housing allocation decreases over time, the province will continue to face significant constraints in executing its mandate. Section 26 of the Constitution and Article 2 of the ICESCR obligates the state to take other reasonable measures to progressively realize the right to housing. The ECDoHS plans fail to clearly show what steps will be undertaken to mitigate budget cuts in housing allocation and how reasonable measures in the form of introducing renewable energy in housing design and formulating private partnerships in renewable energy industry. Renewable energy will lead to reduced costs in bulk infrastructure and increase the pace at which housing projects are completed. Private investment in social rental housing can also assist in cutting costs and accelerating housing delivery through supplementing resources from the private sector. However, for this to be possible, it will require ECDoHS to increase the number of restructured zones in the province as well as changes to social housing policy on issues such as accreditation, property rights, maintenance, tenant selection and profitability margin to attract private investment. Economic growth in the province is the key to the State's progressive realization of the right to housing access through the empowering citizens to take over housing responsibility from government. The Department is urged over the MTEF to ensure that all their housing projects are enrolled with NHBRC to prevent fraud, particularly in the area of project inspection. Poor quality houses and resultant rectification will continue to drain the Department of resources which could be used to construct new homes. The Department is urged to recover these stolen funds from these and other investigations to supplement the insufficient equitable share and to prevent such behaviour from reoccurring. Over time money lost to corruption adds up with negative effects on resources and the Department's ability to meet targets. There therefore must be serious consequences for those who fail to comply with laws and regulations or for officials who defraud the Department of its already limited resources.

⁹¹ Ibid

⁹² Eastern Cape Department of Human Settlements Annual Performance Plan 2014/15, p.23; p.44-46

⁹³ A general report on the Provincial Audit Outcomes Eastern Cape PFMA 2011/12, p.61

⁹⁴ Ibid

⁹⁵ Section 83 of the Public Finance Management Act of South Africa

Towards the progressive realisation of secure housing and basic services: An evaluation of the Eastern Cape Department of Human Settlements Strategic Plan 2014- 2019

This policy brief analyses the Eastern Cape Department of Human Settlements strategic plans for 2014 till 2019. It assesses the impact of its projected budget allocations and plans (national, provincial) on the Eastern Cape Department of Human Settlement's ability to progressively realize the right to housing. Declining budget allocations and increasing construction costs are stumbling blocks for to effective and efficient service delivery over the next three to five years. Cost effective solutions regarding the use of renewable energy, public private partnerships in housing design and delivery as well as economic growth are explored and to the extent to which these proposed solutions are incorporated clearly into the Department's plans.

OUR ORGANIZATION

The South African Constitution commits government departments to the progressive realisation of socio-economic rights within available resources. These rights include the right to education, healthcare, housing, a healthy environment and social welfare. In order to effectively realise these rights through the delivery of public services, state departments and private service providers responsible for the management of public resources must implement effective accountability and service delivery systems. These include: planning and resource allocation systems; expenditure management systems; performance monitoring systems; integrity systems; and, oversight systems. The effectiveness of these systems can be established by monitoring their information outputs. To evaluate these systems, the PSAM produces the following reports annually; Budget Analysis, Strategic Plan Evaluation and Expenditure Tracking Reports alongside occasional service delivery reviews.

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