

MEMORANDUM ON THE OBJECTS OF THE HOUSING DEVELOPMENT AGENCY BILL, 2008

1. OBJECTS

1.1 In September 2004, Cabinet approved the **Comprehensive Plan for the Development of Sustainable Human Settlements** (Comprehensive Plan). In line with the objectives of the Comprehensive Plan, the Housing Development Agency (Agency) will assist provinces and municipalities with the rapid release of land and landed property for housing which will thus fast-track housing delivery.

2. The rapid release of well-located land and landed property for integrated housing is one of the cornerstones for the success of the Comprehensive Plan. It is important to note that the creation of integrated communities with convenient access to social and economic opportunities needs well-located suitable land and landed property. The need for a land acquisition programme for housing arises from the realisation that land is a scarce and finite resource and the current population growth of 2.1% will make it difficult for the country to meet housing demands. It has been reported that the urban areas have been and will continue to be adversely affected by the rapid population growth and the scarcity of affordable well located land.

3. The Agency will therefore facilitate the acquisition of land and landed property, in a way that complements the capacities of Government across all spheres. Municipalities will be expected to use their housing sector plans to identify local housing land needs. The Provincial Housing Departments (PHD) will be responsible to coordinate these. The Agency will then identify and acquire the land and landed property on behalf of the PHD and the municipality and facilitate collaboration with other sectors in the development of such land.

4. The principal objective of the Agency is, to identify, acquire, hold, develop and release state and privately owned land for residential and community purposes for the creation of sustainable human settlements.

5. The Agency will contract with any organ of state for the purposes of acquiring available land for residential housing or community development.

6. This will happen where there is a lack of capacity to identify, acquire, hold, or develop the land for residential or community development and nothing in the Act detracts from the power of a municipality to acquire, hold and develop land in terms of its functions under the Housing Act, 1997 (Act No. 107 of 1997).

7. The functions of the Agency include assisting any organ of state to complete projects which had not been completed and with the upgrading of informal settlements and to deal with emergency housing solutions.

8. The mandate of the Agency must be recorded in writing and must contain the operational and performance indicators against which the performance of the Agency is measured.

9. The Agency is governed by a Governing Board consisting of two executive members and seven non-executive members.

10. The functions and workings of the Board are dealt with fully in clauses 10-23 of the Bill.

11. Clause 24 of the Bill deals with the staff of the Agency who will be members of the Government Employees Pension Fund.

12. Staff may be transferred or seconded to the Agency from the Public Service subject to the provisions of the Public Service Act.

13. In certain circumstances the Minister has powers of intervention if the Agency finds itself in financial difficulty or fails to comply with its obligations (clause 31).

2. PERSONS CONSULTED

The Bill was published for public comment in Gazette No. 30346 of 26 October 2007. Comments were received from:

- Banking Association of South Africa
- Thubelisha Management
- Provincial Government of the Western Cape
- Department of Water Affairs and Forestry
- Servcon
- Ekurhuleni Municipality.

Some of the comments received were incorporated into the Bill.

3. FINANCIAL IMPLICATIONS

The financial implications have not been finalised. The Department of Housing is budgeting for the operational cost of the Agency.

4. PARLIAMENTARY PROCEDURE

4.1 The State Law Advisers and the Department of Housing are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution since it falls within a functional area listed in Schedule 4 to the Constitution, namely "Housing".

4.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.