



## **VISION**

The Ports Regulator will be regarded nationally and internationally as a world class institution which sets the standards for economic regulation in maritime ports.

## **MISSION**

The Mission of the Ports Regulator is to:

- Exercise economic regulation of the South African ports system consistent with Government's strategic objectives;
- Support the development of the ports industry and system;
- Promote equity of access to ports, and to facilities and services provided in ports; and
- Monitor the activities of the National Ports Authority to ensure that it performs its functions in accordance with the National Ports Act, 2005.

## **VALUES**

The Ports Regulator adheres to the values of:

- The Constitution of the Republic of South Africa, with special reference to the creation of a democratic, non-racial, non-sexist, fair society in South Africa;
- Stakeholder focus;
- Fairness;
- Integrity;
- Transparency, accountability and responsibility;
- Honesty and trust; and
- Respect for the trust placed in it for the proper use of taxpayer and stakeholder resources.

## **STRATEGIC OBJECTIVES**

The strategic objectives of the Regulator are:

- Establishing all elements of the regulatory framework within its mandate;
- Developing the capacity to deal with all the output requirements of the organisation;
- Establishing its reputation as an organisation with integrity focused on delivery;
- Ensuring that all port sector participants comply with the National Ports Act; and
- Supporting the development of the port system and the port regulatory system architecture.



## Table of Contents

1. Chairman's foreword	4
2. Chief Executive Officer's report	6
3. Corporate Report	8
3.1 Key Activities and Outputs in the Mandate Areas of the Ports Regulator	10
3.1.1 Administration	10
3.1.2 Economic Regulation	13
3.1.3 Tribunals and Monitoring	16
4. Governance Structures	18
4.1 The Human Resource Committee	18
4.2 The Regulatory Committee	19
4.3 The Audit Committee	20
4.4 The Regulator Secretary	22
5. Achievements in the year under review	23
6. Statement of estimated income and expenditure for 2014/2015	31
7. Programme for 2014/2015	32
8. Annual Financial Statements	44

## 1. Chairman's Foreword

It is the end of yet another year that has delivered a unique set of challenges that could not possibly have been envisaged by the most acute forecaster, even if they were imbued with all the gifts of a mystic and an analyst. During the year under review we have changed Ministers, brought in a new management echelon and changed CEOs. It was a year spent on stabilisation and consolidation. While we welcome challenges, they appear to have been very happy to visit us this year. This raft of changes has required that the Members step up and play a more active and interventionist role than had been played in prior years. The fact that the Regulator has managed to stabilise its operations and deliver, in spite of the challenges, is a testimony to the commitment of the staff and Members to the success of the Regulator. While we have survived and thrived, we hope that we do not get to face such a year again soon.

The loss of the CEO, due to the expiry of his contract, had a major impact on the operations of the Regulator and was difficult to manage in the context where the entire management team of the Regulator had been employed for less than a year. The impact of the loss of such institutional memory during the greatest expansion of functions that the Regulator had embarked on before, was a difficult set-back that required a range of actions by the Regulator Members, as we were the remaining repository of the institutional memory of the organisation. I must therefore thank the Members for their dedication and willingness in ensuring the stabilisation of the organisation in the year under review. I must also thank the staff for the manner in which they responded to the challenges that were placed before them.

This year was the first year of the tariff revision process implementation. Although there were many elements which this process was comprised of, the primary elements were the initial implementation phases of the Tariff Methodology and the Tariff Strategy. Indeed a difficult race to run when horses and jockeys are changing around you. The Regulator had defined a detailed tariff methodology to guide NPA and the ports industry in their application and deliberations around the tariff process, respectively. This is the first stage of the development of a multi-year tariff methodology that creates a further layer of certainty than had previously been the case. Likewise, the simultaneous first phase implementation of the Tariff Strategy was no easy task in this environment. This process, designed to balance out the inappropriate tariff incidence and relative pricing that exists, so as to shift the port industry to a new paradigm that ensures appropriate investment and pricing based on clear pricing signals. It is clearly a delicate process that ensures that all the winners and losers in this process are balanced and the system remains dynamic, functional, efficient and effective during the transition. Performing these complex structural changes in the industry while the organisation is in flux is difficult and has taken its toll on the staff and management.

In spite of these challenges, the Regulator has managed to stabilise the organisation, and commence certain new processes under its mandate. The compliance, monitoring and BBEE processes have gone into full swing after the framework development phase which preceded it. The expanded implementation of this component of the Regulator's mandate shall in due course be impacting significantly on the structure and make up of the industry. This crucial phase wherein the theoretical constructs in the policy framework are translated into meaningful equity of access and the assurance of a system of rights allocation that is transparent, fair and transformative, is fraught with multiple challenges. These are made more complex by the requirements of the duty of stewardship and its related obligation to ensure minimal disruptions to the effective and efficient running of the ports and the movement of cargo.

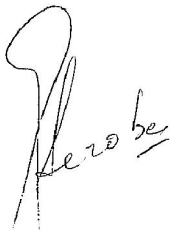
The processes related to the implementation of a nationally coherent capital expansion programme that meets the future needs of the ports sector at appropriate and sustainable price levels have also gone into expanded implementation. In effect, the underpinnings of a system of continuous probity assessment is being developed. Concerns of the Regulator with respect to the level of engagement of port users in capital expansion programmes and their conscious de-linking



of infrastructure requests or appetite from tariff level impacts, has necessitated the Regulator taking a more robust view of these. The Regulator has an obligation, not only to current port users, but to future port users as well. The capital expansion programme is huge and expensive. It cannot be left to develop a life of its own resulting in rampant price increases. The Regulator has to ensure that the process meets the needs of the future at a price that is affordable. In effect, we need to implement processes and assessments that ensure the appropriate level of infrastructure in the right place, operating at appropriate levels of efficiency, that has sufficient equity of access to deliver a transformed sector. This is a process, not an event, and we are currently busy placing the foundation stones of that process.

Our key interventions over the next period shall be consolidating and expanding the Regulator's readiness for the Single Transport Economic Regulator and the expansion of the new processes to ensure system wide coverage. These shall include raising the level of certainty in the regulatory processes even beyond the levels we have managed to achieve up to now and raising the quality and level of regulatory services that we deliver. Our key points of focus shall remain the optimisation of the tariff processes and increasing the role of efficiency in all the Regulatory system decision and implementation processes.

I would like to thank the Regulator Members for their efforts and commitment during these difficult times and the manner in which they accomplished the difficult tasks placed in front of us, while remaining united and coherent. The staff and management are to be commended for their dedication and attitude. None of our achievements in the year under review would have been possible without the guidance and support of the Ministers and Department of Transport staff. I would also like to thank Mr Riad Khan, who left during the year under review, for his many years of tireless service to me and the Regulator.



---

**GLORIA TOMATOE SEROBE**

Chairman

**Ports Regulator of South Africa**

## 2. Chief Executive Officer's Report

The year under review was indeed a year of change and challenge which placed a lot of stress on the staff and management of the Regulator. In effect a new management team was required to stabilise the organisation in the midst of major change. Never an easy task, the problem of managing a change process with a new management team that had not as yet had an opportunity to gel as a team, was difficult. To do that and retain the trust and confidence of all stakeholders was an exceptional outcome. The Regulator Secretariat, under a new management team, managed to get buy in and trust from all the stakeholders who seamlessly supported the new team and trusted them because of the high quality of their outputs and the responsiveness of the team to the needs of the stakeholders. The Regulator Secretariat has managed to achieve outstanding outputs in spite of all the challenges that it faced in the 2013/14 financial year.



One of the primary and most important outputs of the Regulator for 2013/14, was the expanded certainty and development around the Tariff Methodology. The Regulator had, through a very broad consultative process in the previous year, engaged all parties on all aspects of the Tariff Methodology. This culminated in the development and publication of a Regulatory Manual that defined each element of the Tariff Methodology that the Regulator would use in its assessment of the tariff application for the 2014/15 tariff year. The NPA application for a tariff adjustment was therefore guided to ensure that there were reduced areas of ambiguity between the Regulator, the NPA, and stakeholders.

The Regulator had also embarked on a comprehensive review of relative port tariffs. This process which was embarked upon by the development of an NPA internal view of tariff re-alignment to shift relative tariffs away from the current regime, largely influenced by the old tariff levels set by ad valorem wharfage, toward a more cost reflective tariff system that accurately apportions costs and clarifies cost signals in the industry, was continued in this year with the first implementation of the tariff re-alignment. This first phase sets the initial base for our future tariff regime development.

In the period under review, the Regulator performed a tariff assessment in accordance with the Tariff Manual which it had developed. This very successful process which happened relatively smoothly, had a high level of stakeholder approval. The stakeholder engagement in the process running up to the Regulatory Manual development and the Tariff Application ensured that the Regulator's decision was well received by the stakeholders.

One of the crowning achievements of the 2013/14 financial year was the upscaling of the compliance review. This process, which is a comprehensive review of the governance standards in the licensing and rights allocation processes, has accelerated rapidly and is now fully operational. The review during this period concentrated on the Ports of Durban and Richard's Bay.

The Regulator has managed to retain its high and continuous standard of financial and corporate governance which ensures that the Regulator moves towards a clean audit for the 2014 / 2015 financial year audit. This was through the continuity of the leadership of the Regulator and the retention of an unstinting commitment to financial probity.

The increased acceleration of the regulatory framework development in the year has been phenomenal. It has moved from the mere theoretical to the practically implementable. This stage of development that is occurring parallel with the STER development process is advanced and shall be engaged upon with stakeholders early in the new financial year.

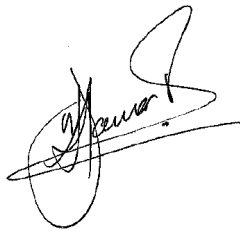
The Regulator has also fully implemented the HR regime and filled all funded posts during the year. This major achievement, coupled with the full implementation of the Performance Management System for all employees, is the fulfilment of all the outstanding elements in the Regulator's HR governance shortcomings.

The Port Benchmarking and performance reviews have been completed as planned for the year. This crucial milestone for the regulatory framework baseline development was completed after extensive reviews of individual elements of port efficiency assessments, that were then benchmarked against international peers, to begin the process of integrating performance elements into the tariff regulatory regime.

A related flagstone in the performance based port pricing regime, the port CAPEX assessments were completed during the year and formed the base for the 2014/15 tariff assessment. This crucial element of the tariff process will have a huge impact on the future tariff levels and was therefore an area of concentration for the Secretariat.

The Secretariat also significantly supported the DOT in its processes around the PCCs, the NPCC, policy development and the granting of strategic advice. This valuable service provided to the DOT is resource intensive and consumes a major portion of the Regulator's travel budget, with in excess of 50 trips per year.

This year with such high levels of success could not have been possible without the support of the Regulator and staff. I therefore wish to thank the Regulator and Staff for their support while I was the Acting CEO of the Ports Regulator. It was a wonderful experience leading this group of people on this very successful journey during 2013/14.



---

**Marissa Damons**  
Ports Regulator of South Africa Acting CEO

### 3. Corporate Report

The Ports Regulator is the South African national economic regulator for the ports industry. This organisation came into being on 4 August 2005 with the promulgation of the National Ports Act, 2005 (Act 12 of 2005). The establishment of the Regulator was a key component of the “White Paper on National Commercial Ports Policy, 2002”. The Act and the policy establish the institutional framework for the ports industry as well as articulating a range of mechanisms crucial to the stable governance thereof from an economic perspective. This governance framework was further developed in the publication and coming into effect of regulations by the Minister of Transport in November 2007, and the Directives issued by the Ports Regulator which came into effect on 6 August 2009.

The Members of the Ports Regulator are:

- Mrs Gloria Tomatoe Serobe (Chairman)
- Mr Riad Khan (CEO and ex officio until contract expired on 15 July 2013)
- Ms Marissa Damons (acting CEO ex officio)
- Mr Aubrey Ngcobo
- Mr Randall Howard (resigned on 30 April 2014)
- Ms Pumzile Langeni
- Ms Patricia Mazibuko
- Mr Andile Mahlalutye
- Mr Grove Steyn
- Ms Thato Tsautse
- Mr Mahesh Fakir (Government employee, appointed CEO on 01 May 2014)





### 3.1. Key Activities & Outputs in the Mandate Areas of the Ports Regulator:

#### 3.1.1. Administration

The Ports Regulator demonstrated its attitude towards ensuring that all the conditions of service due to employees are implemented. This was evidenced by the further implementation of group life benefits and medical aid benefits for the staff over and above pension which had been implemented in the previous financial year. There were also challenges to the Regulator in terms of institutional memory when the contract of the former Chief Executive Officer Mr Riad Khan expired on 15 July 2013. This event had a major effect in terms of operations for the Regulator but measures were put in place to ensure continuity to operations; these measures were to appoint Mr Khan as a consultant to the Regulator until a new CEO was appointed. The Minister of Transport appointed Ms Marissa Damons as the acting CEO effective 10 August 2013 and the new CEO Mr Mahesh Fakir was appointed effective 01 May 2014 after a rigorous recruitment process which was facilitated by the Regulator and approved by the Department of Transport.

#### Financial Management

The Ports Regulator obtained a favourable bill of health from the Auditor-General for financial management in terms of the audit report. The Regulator relies solely on transfers from the Department of Transport (DoT) as a baseline allocation. The Regulator is in the process of engaging with DoT to amend the National Ports Act in order to allow the Regulator to levy fees on port users. This will assist the Regulator to substantially increase the revenue base and be in a position to deliver more to the industry in terms of mandate. The Ports Regulator managed to monitor its budget during the financial year in order to avoid fruitless, wasteful and irregular expenditure at the end of the financial year. There were isolated instances of significant changes in expenditure on certain items during the financial year in comparison to the previous financial year. This was in relation to the items listed in the following Table:

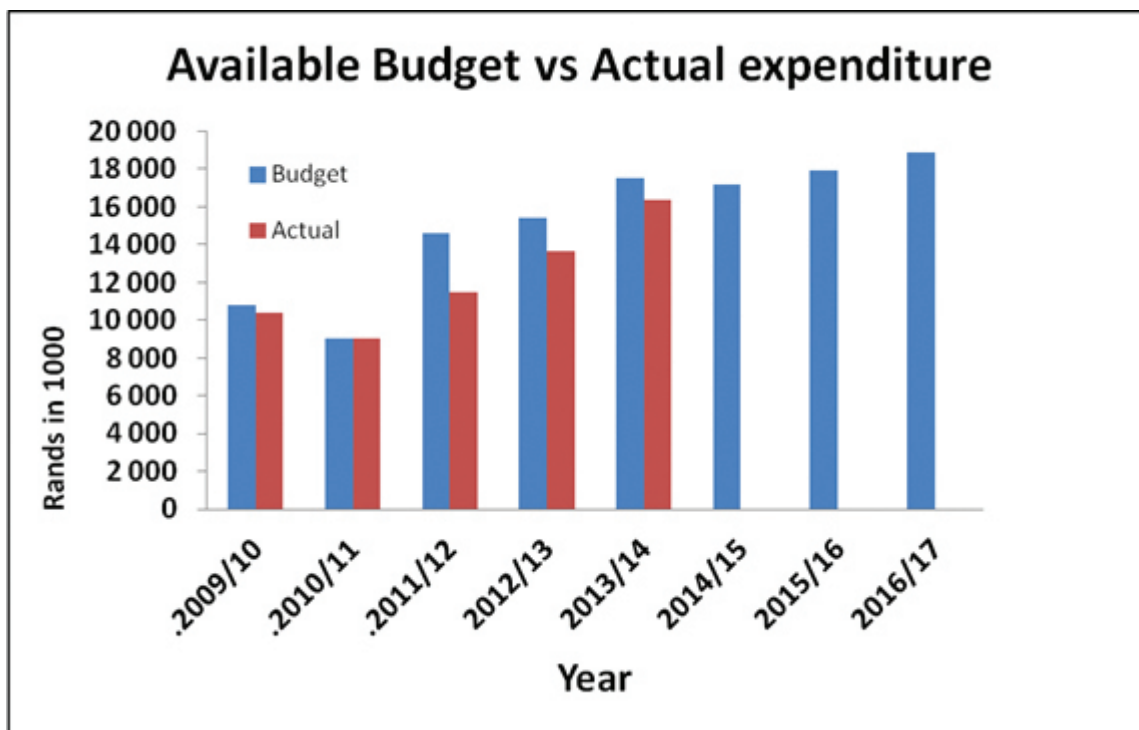
Item	Variance (Decrease denoted in brackets)	Variance explanation
Internal audit	323.6%	Increase in internal audit was as a result of the appointment of internal auditors as required by legislation coupled with five reports which were issued by the internal auditors by the end of the financial year.
Legal fees	(95.2%)	Decrease in legal fees was attributed to low activity regarding the tribunal and complaints during the financial year.
Subscriptions	(58.7%)	Decrease was caused by the non-renewal of some of the subscriptions as a manager for economic regulation was appointed who was able to utilise his knowledge and skill to complete his tasks without the use of material from subscriptions.
Training and development	(73.2%)	Decrease was as a result of no overseas training taking place plus most members of the secretariat are on two/three year courses which were all paid for in the previous financial year.
Consultants	176.7%	Increase was as a result of the implementation of projects that were funded by the unspent rolled over funds which were authorised by National Treasury.
Resettlement costs	(100.0%)	Decrease was as a result of no employees appointed who needed assistance with relocation.
Subsistence and travel (Regulator Members)	(61.4%)	Decrease was due to no overseas trip taken by the board as compared to the previous financial year.

It must be noted that the Ports Regulator receives income solely from transfers from the Department of Transport which is illustrated by the Table below.

## Income classification for the Ports Regulator

Item	2013/2014	R (000)	2012/2013	R (000)
Department of Transport		15 900		15 069
Interest income		275		319
Complaints and appeals		-		19
Sundry income		-		1
<b>Total</b>		<b>16 175</b>		<b>15 408</b>

The Regulator has applied all possible means to ensure that the expenditure is within the approved budget to avoid unauthorised expenditure. The Table below illustrates the expenditure pattern of the Regulator for the past five financial years. The Regulator at the end of the financial year was in the process of engaging with the Department of Transport to revise the baseline allocation in order to expand the human capital and accelerate the mandate discharge. This may result in the baseline allocation for the medium term being revised up from the current budgeted figures.



## Human Resource Management

The 2013/2014 financial year represented a mix of successes and challenges for the Regulator in terms of human resource management. The challenge was the contract of the former CEO Mr Riad Khan which expired on 15 July 2013. Mr Riad Khan was the CEO from the time the Ports Regulator started operating. The loss of Mr Khan was mitigated by the Regulator when he was brought in as a consultant to ensure continuity of the operations of the Regulator. The Regulator achieved success during the financial year as all staff benefits in the conditions of service were implemented. This included a project where the whole human resource regime was reviewed, which included development and review of current policies and procedures, an integrated performance management system for employees, and the salary benchmarking exercise. The main objective was to create favourable working conditions for the Secretariat and to develop salaries that will attract the skill and talent needed by the Regulator.

The Regulator also assisted the Department of Transport towards the end of the financial year with the process of appointing a new CEO, who was subsequently appointed by the Minister of Transport effective 01 May 2014.

Further, the Regulator invested in staff training and development. This training was aimed at enhancing the inabilities in their day to day jobs in order to achieve efficiency and self growth for employees.

The Regulator managed to balance its employment equity status as at 31 March 2014 in accordance with its Employment Equity Plan. This was achieved through the diversification of the workforce to include all workgroups.

The Regulator furthermore managed the vacancy rate to ensure that all funded vacant posts are filled, a challenge was the inability to identify suitable candidates for the vacant positions during the interview processes.

#### 2013/2014 Employment Equity Breakdown of Staff

Category	Black Female	Black Male	White Female	White Male	Category Total
Technical and Managerial	60.0%	20.0%	0%	20.00%	31.3%
Support & Interns	72.7%	18.2%	9.1%	0.00%	68.7%
<b>Total</b>	<b>61.0%</b>	<b>29.0%</b>	<b>5.00%</b>	<b>5.00%</b>	<b>100%</b>

Employment Equity Statistics	2013/2014	2012/2013
<b>Category</b>		
Black Male	18.8%	29.0%
Black Female	68.8%	61.0%
White Male	6.2%	5.0%
White Female	6.2%	5.0%
<b>Total</b>	<b>100%</b>	<b>100%</b>

#### Executive management earnings for the financial year 2013/2014

Name	Remuneration (2013/2014)	Performance Bonus	Acting allowance	Leave Pay	Total
Mr Riad Khan CEO*	593 728.02	-	-	361 771.96	955 499.98
Ms M Damons Executive Manager: Legal and acting CEO**	755 966.55	-	255 498.39	-	1 011 464.94
<b>Total</b>	<b>R1 349 694.57</b>	<b>-</b>	<b>R255 498.39</b>	<b>R361 771.96</b>	<b>R1 966 964.92</b>

\*employment contract expired on 15 July 2013

\*\*appointed acting CEO on 10 August 2013

## Supply Chain Management

The Regulator accelerated its mandate in terms of delivery of services to the ports stakeholders. In the 2013/2014 financial year, tenders to the value of R2 684 031 were awarded to the suppliers of goods and services. It must be noted that 60% of these tenders were financed from the funds that were authorised by the National Treasury to be rolled over by the Regulator from the previous financial year. The Regulator experienced difficulty in the 2012/2013 financial year to deliver on the planned/budgeted projects, resulting in such projects being rolled over to the 2013/2014 financial year. There was only one project planned for the 2013/2014 financial year which was not completed due to technical problems in securing a fully compliant bid. However, this project will be rolled over to the 2014/2015 financial year as it is a project that is crucial especially in relation to the Economic Regulation activities of the Regulator. This was also aimed at identifying those suppliers who will assist the Regulator in terms of BBBEE expenditure as budgeted in the ENE chapter and strategic plan.

BBBEE as a percentage of procurement category	2013/2014	2012/2013
Discretionary Expenditure	90.2%	89.4%
Total Expenditure	44.8%	42.8%

## Governance and Compliance

The Members of the Ports Regulator are tasked with implementing the strategies and strengthening the governance of the Ports Regulator. In past financial years, the Regulator struggled to achieve a desirable position as required by legislation to achieve a fully compliant governance regime. This was mainly influenced by limited resources of funding and human capital. The Members were equipped to appoint competent and skilled staff to accelerate the mandate discharge to assist the government in achieving its strategies. In the 2013/2014 financial year, the Members of the Regulator, through the Audit Committee, have resolved all the issues that were previously raised by the Auditor-General as non-compliance items in the audit report. This was a positive move towards obtaining a clean audit report. As at the end of the financial year, there were no known instances of non-compliance with legislation that could lead to possible fruitless, wasteful and irregular expenditure.

There was clear evidence of good governance from the Regulator and its sub-committees. This was because quarterly meetings were held to report and plan for the remainder of the financial year and to monitor if the Regulator is still on course towards delivering on the annual performance plan as agreed between the Regulator and the Minister of Transport.

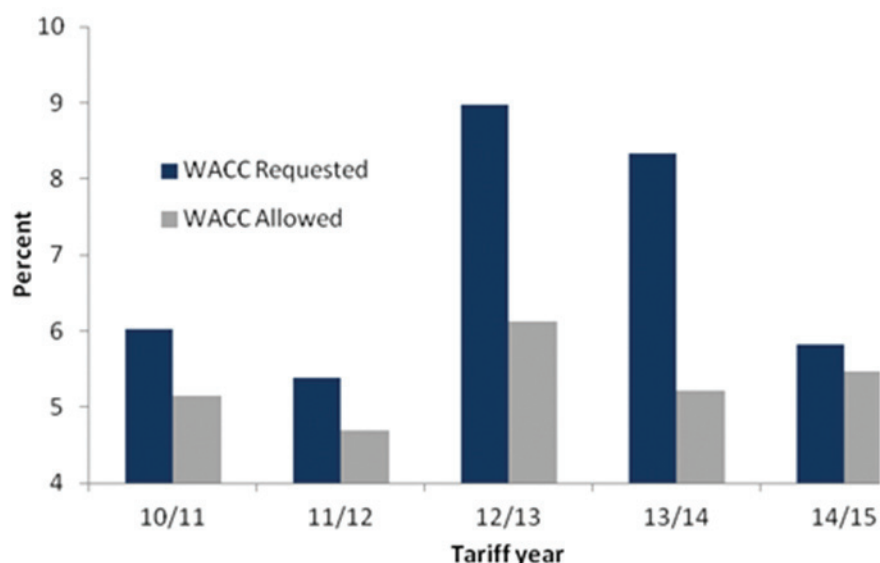
### 3.1.2 Economic Regulation

The Economic Regulation Programme has continued to expand in both scope and complexity and has experienced a number of highlights in the year under review.

In order to continue to improve the level of transparency and consistency in the tariff setting process the Regulator undertook extensive consultations, on the NPA proposed Tariff Methodology with all port stakeholders, including the NPA, through consultation hearings (road shows), meetings and receipt of submissions. On 13 August 2013 the Regulator published a mandated interim methodology (tariff manual) for the 2014/15 tariff year.

The guidelines within that document were aimed at assisting the NPA with submitting an application which will narrow the gap between the tariffs requested and those subsequently granted by the Regulator and was welcomed by the NPA as well as stakeholders. The interim manual defined the Regulator's parameters in areas that were previously contentious, thus it also assisted stakeholders to formulate directed and comprehensive responses on the application, thereby assisting in Regulator's assessments and tariff determination. The publication of the guidelines increased Regulatory certainty resulting in, for example, less than half a percent difference in the Weighted Average Cost of Capital (WACC) granted

and that applied for. This was one of the major areas of contention which resulted in large differentials in the past as depicted in the graph below.



The further development of capacity in the Regulator’s secretariat, through the recruitment program in the previous financial year, yielded positive results allowing the Regulator, for the first time, to conduct a rigorous and in-depth tariff assessment without outsourcing to external service providers.

The Regulator’s research programme has provided significant technical outputs that underpin many of the decision making processes in the regulatory framework and provides support within the regulator during the decision-making process. The updating of the Global Port Pricing Comparator Study which assesses internal and external coherence of South African port pricing for various port supply chains provides an important test of the extent to which port pricing supports or work against the economic policy objectives for the posts system as well as the country as a whole. This study that is based on the comparison of prices of standardized “unitary” activities in ports around the world, also provides a basis for assessing the appropriateness of the tariffs in South African ports, both within individual supply chains and across different supply chains. Other research activities included a cargo traffic audit as well as ad hoc internal reports on transshipment, volume discount tariffs in the automotive sector, and others.

In addition to the development of the interim Tariff Methodology, a number of processes also gained momentum through the year including the Tariff Strategy, as well as a multi-year tariff methodology. The Tariff Strategy concerns itself with relative tariff levels and is based on the key principle that underpins this process namely cost recovery and the related questions of cost allocations. The valuation of the regulatory asset base is of utmost importance to the regulator and this task must be completed in the next financial year to provide an accurate base for the allocation of costs to establish coherent internal and external tariff levels and should answer important questions such as the tariff burden should be spread between port users.

The Tariff Strategy is therefore fundamental to the efficiency and effectiveness of the port system and arguably more important than the absolute tariff burden. The inappropriate allocation of costs must be corrected prior to any clear views being made as to subsidisation. In addition, the impact of a shift in asset allocation and the resultant tariff implications must be clearly understood prior to implementation and may result in a more phased approach to the tariff strategy. It is expected that the implementation plan and the first phase will be completed in the next financial year, and shall greatly contribute to clarifying investment and operational signals in the management and development of the port system.

The various activities in other units and the collaboration between units in areas of planning optimisation assessments, port physical capital adequacy and efficiency, port traffic audit, port operational efficiency studies, major asset valuation assessments and which are ongoing with the in-year outputs having been achieved; largely underpin and add content

to the major tariff processes. This will gradually define the outer parameters of the Tariff Strategy and Tariff Methodology going forward through, for example, the introduction of port efficiency standards in the tariff setting process. Coordination and a collaboration approach will be crucial if the Regulator is to succeed in determining how to appropriately allocate costs to various users and meet the port throughput capacity needs over the long term, on a sustainable level.

### 3.1.3 Industry Development

With new management and under the guidance of the CEO and Acting CEO, the programme continued focusing on processes in support of regulatory development, stakeholder engagement, and technical support for the Department of Transport. As in the previous year, the division supported various processes at the Department of Transport, namely: the policy and strategy development process of the DOT towards a Maritime Transport Policy for South Africa which is due for consultation and possible promulgation during 2015/16; and the Single Transport Economic Regulator (STER) committee processes relating to the drafting of the Bill.

The industry development objective and department have sought to develop a national consensus across all stakeholders to optimise port planning and operations. This work is done mainly through engaging maritime stakeholders in the quarterly Port Consultative Committees (PCC) and the National Port Consultative Committee (NPCC) meetings as well as the Regulator's road shows with stakeholders on the tariff application of the Authority. The year under review also saw significant engagements on the Authority's proposed Tariff Methodology and Tariff Strategy as reported by the Economic Regulation division.

The PCCs, which are legislated forums, have previously been identified by the Regulator as a platform for securing consensus on the CAPEX plans that are approved in the tariff decision. Through the Regulator's participation in the PCCs, initiatives were started to develop a range of efficiency measures which will ultimately be integrated in the pricing and efficiency elements of port system management in the medium to long term. The mixed success of establishing port specific key performance indicator sub-committees registered at the initiation of the process, still prevailed during the year under review. Although there was momentum in the work of the sub-committees, triggered by the Authority's process of defining and introducing operating standards for terminal operators, significant work still needs to be done to conclude baseline efficiency matrices beyond those defined by the NPA per port.

A significant outcome of this department's engagement in the PCC process is the method adopted by the PCCs around the appropriate mandate seeking processes of the PCCs. In its analysis, the department identified low levels of effectiveness of port user representation on the PCC, information dissemination to and from stakeholders which ultimately affects port user's knowledge of the Authority CAPEX plans that are shared with PCCs and accepted in the tariff setting process as supported by port users. To overcome the shortcoming, a wider port user consultation process was established to be implemented early in the 2014/15 financial year. Attended by all port users in a port, the sessions will see the Authority presenting and seeking users' inputs into a Port Development Framework Plan and the CAPEX programme for the next seven years per port.

### 3.1.4 Tribunal and Monitoring

#### LEGAL REPORT

##### 1. Governance

The Members of the Ports Regulator were appointed and took office in June 2012 for a three year term. In terms of the Public Finance Management Act, 1 of 1999 as well as the King III Code on governance which applies to all public entities the Members of the Regulator, who for practical purposes are constituted as the Members have two main functions: first, they are responsible for determining the organisation's strategic direction (and consequently its ultimate performance); and second, they are responsible for the control of the organisation. The Members require management to execute strategic decisions made by it effectively and according to laws and the legitimate interests and expectations of stakeholders.

From a governance perspective the Regulator has successfully achieved a fully compliant position with the appointment of a permanent Company Secretary and fully effective sub-committees of the Regulator who reported quarterly to the Members on targets achieved as well as risks faced by the organisation in their various spheres.

The Members discharged their duties in terms of ensuring that all their deliberations, decisions and actions were based on the four foundational principles of good governance, namely:

- Responsibility: for the assets and actions of the organisation to ensure it remains on its strategic path;
- Accountability: for the decisions made by it to the Executive Authority and other key stakeholders;
- Fairness: by ensuring that fair consideration is given to the legitimate interests and expectations of all stakeholders;
- Transparency: by ensuring that information on which decisions were made was disclosed to enable stakeholders to make an informed analysis of the organisation's performance and sustainability.

## 2. Compliance:

The Compliance function of the organisation fulfils two key roles. The first is ensuring that the National Ports Authority complies with the National Ports Act (12 of 2005) and its broader legislative framework where it impacts on its mandate in terms of Section 11 of the National Ports Act. The second is to ensure and advise on matters of compliance by the Regulator with its own legislative framework, with its key pieces of legislation being the National Ports Act, the PFMA, the Labour Relations Act and the Basic Condition of Employment Act, amongst others.

The organisation has managed to strengthen its compliance and governance structures with the intention of fully complying with the Acts, policies, procedures and regulations applicable to its operation. This process of strengthening governance and compliance has also led to the development and approval of policies and procedures that will govern the operating activities of the organisation to achieve its output which will be in line with its Annual Performance Plan and Strategic Plan. In addition, the further capacitation of the organisation will allow a greater degree of separation and accountability of functions, resulting in a higher level of substantive compliance with the governance and legislative requirements applicable to it.

Key outputs in terms of its compliance monitoring function was firstly to develop a compliance methodology which was successfully achieved. The second was to initiate, strategise and conduct a compliance audit in accordance with the framework and methodology of the ports of Richard's Bay and Durban and once done to upscale the audit to the remaining six commercial ports. Due to time and capacity constraints the first leg of the compliance audit was somewhat delayed and really only commenced in the final quarter of the financial year. The third aspect of compliance is to ensure the National Ports Authority (NPA) complies with Regulations 2, 3 and 4 in terms of the National Ports Act which requires the NPA to report on the BBBEE status of those whom they contract with to carry out the port services and provide facilities within the port boundaries, to ensure they comply with the requirements set out in the aforementioned Regulations. In terms of achieving its targets set to meet the key outputs in this regard, it can be said that with the success in getting the foundation in place as well as the workplan indicating the milestones to be achieved and the audit being started in the ports of Richard's Bay and Durban, there have also been challenges in terms of staff resignations within an already under-resourced department.

## 3. Tribunal and Monitoring

Operating an efficient and effective quasi-judicial mechanism of dispute resolution in the form of a Tribunal to hear complaints and appeals under the National Ports Act is one of the core functions of the Ports Regulator, and one it is proud of in terms of decisions made and published, which in effect also regulates the industry through the decisions it delivers and with which the NPA and industry is obliged to comply.

Certain legislative gaps have however been identified, especially with regard to the procedures carried out for purposes of running the Tribunal, which need to be addressed in terms of the National Ports Act, the Directives, and the Tribunal



Manual being amended which in terms of the current year has been commenced but not finally completed. With the backlog of matters and rush to try and clear that backlog, tasks needed to be prioritised in terms of risk to the organisation. This was the focus within the department especially with the appointment of the Executive Manager being made in the first half of the financial year and the appointment of a Compliance and Tribunal Manager in the second half of the financial year.

Key outputs within this function are that various matters which were delayed, occasioned by delays by the participants due to scheduling or change of legal representation; as well as delays due to the breakdown of attempted settlement processes; were finalised with four matters proceeding to hearing, two records of decision being issued, and a new matter being lodged with the Regulator.

## Governance Structures

### 4.1 The Human Resources Committee

Members of this committee are Mr R Howard (Chairman), Mr A Ngcobo, and Ms P Mazibuko.

The function of the Human Resources Committee is to ensure management and governance of all human resource and remuneration procedures, processes and activities, inside the organisation. The committee's key role is to ensure that the Regulator puts in place the correct policies and procedures so that all human resources related matters are effectively governed and executed. Furthermore, it also conducts annual reviews to ensure updated policies, and guides processes before recommending to the Regulator for approval.



The 2013/2014 financial year has seen growth of the Regulator and an expansion of the Secretariat. Numerous processes have been conducted and implemented to ensure that the Secretariat is in line with legislation as well as industry, including the process of assisting the Department of Transport with the appointment of a CEO. The Committee guided the Secretariat through the transition phase between the former CEO and recently appointed CEO whilst ensuring that activities of the Regulator were not disrupted.

An important review of the entire human resource system was conducted during the past year including a policy process which involved a review of current policies, creation of new policies and their implementation. The process also entailed the development of an employee performance management system with an integrated incentive scheme and the Regulator embarked on a process to review current salary levels and equate them with both government and market related levels.

In terms of employee benefits, the last financial year has seen the implementation of both employee medical benefits and life cover benefits in line with the creation of a safe, healthy working environment.

The HR Committee has positioned the Regulator as a compliant and responsive employer at both conditions of service and training and development levels within the limited financial resources available. This is borne out by the number of interns trained and developed, some of whom are contributing to the work of the Regulator on a permanent basis.

The HR committee has laid a solid foundation with the full support of members of the Secretariat. This foundation will be built on and therefore we remain confident of our ability to respond to any new developments and to providing the necessary guidance to the Regulator.

**Mr Randal Howard**

Chairman

Human Resources Committee

## 4.2 The Regulatory Committee

Members of this committee are Mr G Steyn (Chairman), Ms P Langeni, Ms T Tsautse and Mr M Fakir (Mr Fakir was appointed as CEO effective 01 May 2014).

This committee is responsible for oversight of delivery of obligations of the Regulator arising from the National Ports Act and regulations issued thereunder. The key activities of this committee during the period under review were in the areas of economic regulation and the hearing of complaints and appeals. This committee performs oversight of all the regulatory elements and determines which are to be submitted to the Regulator for approval. They also perform a quality control function with respect to economic regulation and the hearing of complaints and appeals.

- **Economic Regulation**

Significant outputs of this committee included the publishing of an interim tariff methodology manual as well as responsibility for components of the base analysis for the tariff assessment and oversight and quality control of the inputs of the Regulator's secretariat into the Regulator's determination of the tariff. Other areas of output from the Regulatory Committee included an analysis and draft decision adopted by the Regulator on the proposed transshipment tariff application by the NPA, input in tribunal processes and other research conducted internally as well as externally by the secretariat. With respect to the Economic Review, the Regulatory Committee was largely responsible for oversight and quality control of the research outputs and the finalisation of elements referred back to the Secretariat for additional work or research, including responses to requests from sitting tribunals.

The Regulatory Committee also performs oversight and quality control over the outputs of the organisation in the areas of tariff review, performance and efficiency benchmarking, and monitoring. The Regulatory Committee is also responsible for significant levels of baseline research in the tribunal processes for consideration by the Regulator. It also provides oversight and quality control over the tribunal processes and procedures that are performed by the Secretariat. This committee further engaged with TNPA regarding the tariff strategy and methodology to facilitate the movement towards a multi-year tariff system.

**Mr G. Steyn**  
Chairman  
Regulatory Committee



### 4.3 The Audit Committee

We are pleased to present our report for the financial year ended 31 March 2014.

#### AUDIT COMMITTEE RESPONSIBILITY

The Audit Committee has complied with its responsibilities as stipulated in Section 77 of the Public Finance Management Act 1 of 1999 and Treasury Regulation 3.1.

The Audit Committee also reports that it has adopted, with approval from the Regulator, appropriate formal terms of reference as its Audit Committee Charter.

This Audit Committee Charter will be reviewed on an annual basis to ensure its continuing relevance and effectiveness. The Audit Committee has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein.

Both the Audit Committee and Internal Audit Terms of Reference are reviewed and, where required, revised on an annual basis.

The Committee has met with the Auditor General, Internal Audit and Management separately.

#### AUDIT COMMITTEE MEMBERS AND ATTENDANCE

The Table below reflects the relevant information on the Audit Committee members:

Name	Date Appointed	Date Resigned	No. of meetings planned	No. of meetings attended
T. Boltman (Chairman) *	November 2013	Not applicable	4	4
A. Ngcobo (Chairman) **	June 2012	Not applicable	4	4
T. Tsautse (Ms)	June 2012	Not applicable	4	3
A. Mahlolutye	June 2012	Not applicable	4	3

\* Appointed Nov 2013

\*\* Chairman until Nov 2013

#### THE EFFECTIVENESS OF INTERNAL CONTROL

The Audit Committee is of the opinion that, based on the information and explanations given by management and discussions with the independent external auditors (AGSA) on the results of its audits, the internal accounting controls are operating to ensure that the financial records may be relied upon for preparing the AFS, and that accountability for assets and liabilities is maintained.

However, it must be reported that there were incidents where the control system was found to be lacking. More information relating to this can be found in the Acting Chief Executive Officer's report, AGSA's report and the financial statements.

The Internal Auditors conducted audits on certain key operations and processes of the Ports Regulator as per the approved internal audit plan during the year ended 31 March 2014. Based on the scope and results of their work, and subject to the limitations of sampling their evaluation of the key controls implemented by management to address the associated risks, it appears that a less than adequate control framework was in place. Certain significant improvements were needed in key control activities in providing reasonable assurance that the risk areas, subject to review, were being properly managed and controlled. There were numerous instances of non-compliance to legislation and policies and procedures.

These have, however, been addressed/are in the process of being addressed, through the existing levels of management. Internal Audit expressed confidence that management are committed and are taking the necessary remedial action to address the control deficiencies.

Accordingly, we can report that the system of internal control for the period under review was efficient and effective, except for those areas that were raised by the AGSA.

#### **IN-YEAR MANAGEMENT AND MONTHLY/QUARTERLY REPORTS**

The Ports Regulator has submitted monthly and quarterly reports to the Audit Committee and the Regulator. These reports were discussed and accepted by the Audit Committee and the Regulator.

#### **EVALUATION OF ANNUAL FINANCIAL STATEMENTS (AFS)**

The Audit Committee has reviewed and discussed:

- The audited AFS to be included in the annual report with AGSA and the Accounting Authority.
- Management letter and management's response thereto.
- Reviewed significant adjustments resulting from the audit.

#### **AUDITOR'S REPORT**

The Audit Committee concurs and accepts the conclusions of the external auditor on the AFS and is of the opinion that the audited AFS be accepted and read together with the report of the Auditor General.

#### **CONCLUSION**

In our opinion, based on feedback to Audit Committee meetings, both general and specific controls have been identified (with weak areas) for management's attention. These areas are being addressed and this corrective process must be ongoing and conclusive to mitigate the risk of not achieving the Ports Regulator's agreed strategic objectives. In our opinion, based on feedback to the Audit Committee meetings, the Ports Regulator's key performance indicators are being monitored within the environmental and cash flow constraints the Ports Regulator faces. The Ports Regulator is achieving in most key performance areas.

**Mr T. Boltman**  
Chairman  
Audit Committee

#### 4.4 Regulator Secretary

The Regulator Secretary is the key support of the Regulator, and is responsible for compliance and governance in all Regulator meetings and provides an advisory service to the Members of the Regulator with respect to such functions. The initial Regulator Secretary was instrumental in the establishment of the Regulator as well as the development of policies and procedures that guide business processes of the Regulator as well as acting as Regulator Secretary. A permanent appointment was made in June 2013 commencing with the first quarter Members meeting held on the 13 June 2013.

The main role of the Regulator Secretary, or Company Secretary as it is better known, is that of the gatekeeper of corporate governance of an organisation. Individual Directors and the Board collectively should look to the Board Secretary for guidance on their responsibilities and duties and how in certain conflicting situations such duties should be properly discharged in the best interests of the organisation. It is the role of the Regulator Secretary to provide comprehensive and practical support to the Members, the Chairman of the Regulator, and the Chairs of its sub-committees.

In terms of performance, the Members and the sub-committees met quarterly and had additional meetings where circumstances required same in order to reach strategic decisions in the interests of the organisation and its sustainability.

Acting Regulator Secretary (April to June 2013)

Ms Helen Dube

Regulator Secretary (June 2013 to present)

Ms Marissa Damons

Regulator Member meeting attendance for the period 1 April 2013 to 31 March 2014

Name	Regulator	Human Resources Committee	Regulatory Committee	Audit Committee	Annual General Meeting
Total number of meetings	4	4	4	4	1
1. Mrs G. Serobe	4	n/a	n/a	n/a	1
2. Ms P. Langeni	2	n/a	2	n/a	-
3. Ms P. Mazibuko	4	4	n/a	n/a	-
4. Ms T. Tsautse	4	-	3	4	1
5. Mr A. Ngcobo	4	4	n/a	4	1
6. Mr A. Mahlalutye	3	n/a	n/a	2	-
7. Dr G. Steyn	3	n/a	4	n/a	-
8. Mr M. Fakir	3	n/a	4	n/a	1
9. Mr R. Howard	4	4	n/a	n/a	-

Regulator Member Fees for the period 1 April 2013 to 31 March 2014

Name	Member Fees (2013/2014)	Total
Mrs G. Serobe	R 53 311.88	R 53 311.88
Ms P. Langeni	R 43 044.48	R 43 044.48
Ms P. Mazibuko	R 82 062.00	R 82 062.00
Ms T. Tsautse	R 94 117.00	R 94 117.00
Mr A. Ngcobo	R 94 752.00	R 94 752.00
Mr A. Mahlalutye	R 55 413.50	R 55 413.50
Mr G. Steyn	R 60 700.50	R 60 700.50
Mr M. Fakir (Government employee)	R 0.00	R 0.00
Mr R. Howard	R 103 492.50	R 103 492.50



Strategic objective	Objective statement	KPI indicator	Target	Actual achievement	Risk	Action required	Responsible person	Reason for variance
	Staff performance management system (PMS) implemented for all staff	PMS implemented with enhanced performance requirements for each staff member	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Fully achieved Performance Management Framework implemented together with Staff performance plans	100% compliance	None PRSA Server to be configured for DMS implementation.	<ul style="list-style-type: none"> <li>M. Damons</li> <li>T. Mhlongo</li> <li>A. Bhabha</li> <li>M. Damons</li> </ul>	Target Achieved
	Purchase scalable IT modules (low cost) in research, process and data management that are cost effective and appropriate for the Regulator	<ol style="list-style-type: none"> <li>Research data analysis software procured and fully implemented</li> <li>Document management system procured and implemented</li> <li>First phase data management software and hardware procured and implemented</li> <li>Tribunal case management system procured and implemented</li> </ol>	<ul style="list-style-type: none"> <li>100% - 2rd Q</li> <li>100% - 4th Q</li> <li>50% - 4th Q</li> <li>100% - 3rd Q</li> </ul>	<ol style="list-style-type: none"> <li>Software fully procured by first quarter, and implemented</li> <li>DMS System was procured by the end of the financial year but not implemented</li> <li>Target not achieved</li> <li>Target not achieved</li> </ol>	Data and document management sub-optimal			<ol style="list-style-type: none"> <li>Target achieved</li> <li>Procurement delay was due to: <ul style="list-style-type: none"> <li>The crashing of the Server</li> <li>Dependency on existing hardware and software necessitated changes before procurement</li> <li>scrutiny of specifications to ensure quality</li> </ul> </li> <li>Dependent on system being in place</li> <li>Dependent on system being in place</li> </ol>



Strategic objective	Objective statement	KPI indicator	Target	Actual achievement	Risk	Action required	Responsible person	Reason for variance
	Effective functional secretariat established	Composite average measure: 1. All KPI's average 2. Filled posts divided by funded posts 3. Foreseeable actual expenditure/ budgeted expenditure	• 100% - 4th Q	Composite average result: 1. All KPIs average = 14.72/25 = 0.588 2. Filled posts divided by funded posts = 5/5 = 1 3. Foreseeable actual expenditure/ budgeted expenditure = R 16 213 / R 16 375 = 1 4. On an equal weighting this amounts to a composite score of 86.3%	Secretariat not fully functional thus affecting operations	All KPI's met	• M. Damons	Target substantially achieved
	Preferential procurement in accordance with the regulatory framework	70% of discretionary procurement must be from BBBEE in accordance with the scoring in the regulatory framework	• 70% - 4th Q	90.2% of discretionary expenditure	Audit finding	Procurement in accordance with framework	• T. Mhlongo	Target met and exceeded
	Develop gap response to Auditor General's comments and recommendations on 2012/13 financial statements	Dashboard matters and matters of emphasis corrected	• 100% - 4th Q	Dashboard matters corrected and all three emphases matters corrected and implemented	None yet	Remain on track	• M. Damons and T. Mhlongo	Target met

Strategic objective	Objective statement	KPI indicator	Target	Actual achievement	Risk	Action required	Responsible person	Reason for variance
Economic regulation (price, access, institutional structure, Etc.) of the ports industry	Medium-term Tariff Methodology and Tariff Strategy consulted and finalised	1. Methodology decision and publication 2. Strategy implementation plan decision and publication	<ul style="list-style-type: none"> <li>100% - 2nd Q</li> <li>100% - 3rd Q</li> </ul>	<ul style="list-style-type: none"> <li>1. Tariff methodology finalised and published in 2nd Q</li> <li>2. Partly achieved: <ul style="list-style-type: none"> <li>Strategy implementation plan draft was completed and tabled at committee level</li> <li>Board committee decision pending</li> </ul> </li> </ul>	Delayed tariff determination and publication of the tariff book	<ul style="list-style-type: none"> <li>1. Complete medium term tariff methodology.</li> <li>2. Tariff Strategy principles awaiting approval by Regulatory committee</li> </ul>	<ul style="list-style-type: none"> <li>C. Lotter and M. Damons</li> </ul>	<ul style="list-style-type: none"> <li>1. Achieved</li> <li>2. Partly achieved due to: <ul style="list-style-type: none"> <li>Work completed</li> <li>Decision awaiting</li> <li>Publication dependent on decision</li> </ul> </li> </ul>
	Perform NPA 2014/2015 Tariff Assessment	Tariff decision and ROD publication	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Tariff Decision made and ROD published	None	Target achieved	<ul style="list-style-type: none"> <li>C. Lotter and M. Damons</li> </ul>	Target achieved
	Engagement with DOT on integrated tariff methodology principles approach beyond medium term	Long term integrated tariff approach agreed with DOT	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Not achieved	Process delayed by STER decisions	Accelerate STER process where possible on tariff approach issues	<ul style="list-style-type: none"> <li>M. Damons</li> </ul>	Not achieved: <ul style="list-style-type: none"> <li>Dependent on DOT process</li> </ul>
	Annual Global Tariff Comparator for cargo/commodity type	01 April 2013 Global Port Pricing Comparator completed for four cargo/commodity types	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	100% complete	Target achieved	None	<ul style="list-style-type: none"> <li>C Lotter</li> </ul>	Target achieved
	Revise Directives on compliance filings by all port industry participants	Revised Directives published for comment	<ul style="list-style-type: none"> <li>100% - 3rd Q</li> </ul>	Partially achieved: <ul style="list-style-type: none"> <li>All tribunal directives drafted</li> <li>NPA directives in relation to compliance filings not done</li> <li>None published for comment</li> </ul>	None	<ul style="list-style-type: none"> <li>1. Get approval for tribunal directives</li> <li>2. Continue work on NPA directives in the next financial year</li> <li>3. Publish for comment</li> </ul>	<ul style="list-style-type: none"> <li>M. Damons</li> </ul>	This was due to capacity constraints within legal and M. Damons acting as CEO

Strategic objective	Objective statement	KPI indicator	Target	Actual achievement	Risk	Action required	Responsible person	Reason for variance
	Revise directives to articulate application of Regulator powers and mandates	Revised Directives developed in current Ports Act context	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Partially achieved: <ul style="list-style-type: none"> <li>Received inputs from stakeholders</li> <li>Drafting not completed</li> </ul>	None	Complete process in the next financial year	<ul style="list-style-type: none"> <li>M. Damons</li> </ul>	The variance was due to capacity constraints
Support the development of the ports industry in planning, integration, efficiency and transformation	Support the development of the Ministerial Framework for Private Sector Participation in Ports	Provide all technical support required by DOT in the process	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Target not achieved	External (DOT) procedural delays	Withdraw from process until reinstated by DOT	<ul style="list-style-type: none"> <li>J. Mulaudzi and M. Damons</li> </ul>	Target not achieved <ul style="list-style-type: none"> <li>Process dependent on DOT</li> </ul>
	Implement the Ministerial Framework for Private Sector Participation in Ports	Develop directives and monitoring instruments that give effect to the framework	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Target not achieved	Directives dependant on the finalisation of the Ministerial Framework	Withdraw from process until reinstated by DOT	<ul style="list-style-type: none"> <li>J. Mulaudzi and M. Damons</li> </ul>	Target not achieved <ul style="list-style-type: none"> <li>Process dependent on DOT and existence of framework</li> </ul>
	Support the further implementation and development of the National Ports Act	Provide technical support to DOT in Ports Act review and redraft	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Target partially achieved: <ul style="list-style-type: none"> <li>Report prepared on recommendations being finalised for submission to the DOT</li> </ul>	None	Target not fully achieved	<ul style="list-style-type: none"> <li>M. Damons and H. Dube</li> </ul>	Due to capacity constraints this process was being undertaken by the independent consultant
	Support the implementation of the NFLS	Provide all technical support required by DOT in the process	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Target not achieved	External (DOT) procedural delays	Withdraw from process until reinstated by DOT	<ul style="list-style-type: none"> <li>J. Mulaudzi</li> </ul>	Not achieved: <ul style="list-style-type: none"> <li>Dependent on DOT process</li> </ul>

Strategic objective	Objective statement	KPI indicator	Target	Actual achievement	Risk	Action required	Responsible person	Reason for variance
	Support the Maritime Industry Development Programme initiatives of the DOT and SAMSA	Provide all technical support required by DOT in the process	<ul style="list-style-type: none"> <li>Ongoing</li> </ul>	Target achieved: - Ongoing support provided on NPCC, PCC and Policy process	None	As per process	<ul style="list-style-type: none"> <li>J. Mulaudzi and H. Dube</li> </ul>	No variance - support provided as required
	Medium term port benchmarking review 2013/14	Perform 1 April 2013 full port benchmarking review on marine, terminal infrastructure services with a shared efficiency research component with DOT	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	100 % completed	None	Target achieved	<ul style="list-style-type: none"> <li>C. Lotter and J. Mulaudzi</li> </ul>	Target achieved
	Port capacity and utilisation review 2013/14	Perform capacity and utilisation review 2013/14	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Target partially achieved: - Report drafted for financial year - Volume information received for 90 terminals - Throughput information awaited for 30% of terminals - Therefore 70% completed	Information gaps	Completion of report in the next financial year	<ul style="list-style-type: none"> <li>J. Mulaudzi and C. Lotter</li> </ul>	Incomplete data for some ports

Strategic objective	Objective statement	KPI indicator	Target	Actual achievement	Risk	Action required	Responsible person	Reason for variance
Monitoring the port industry and its compliance with the port policy, strategy and regulatory instruments	Complete 75% of the compliance review of Durban and Richard's Bay and commence other ports	1. Richards Bay and Durban port level compliance review complete 2. East London / PE / Ngqurha compliance review completed	<ul style="list-style-type: none"> <li>75% - 4th Q</li> <li>25% - 4th Q</li> </ul>	<p>1. Target partially achieved: - 173 of 568 (30%) contracts reviewed</p> <p>2. Target achieved: - Framework and project plan for remaining ports complete - Framework and project plan constitutes 25% of the review work</p>	Not receiving information within time period	Complete review work for remaining ports in the next financial year	<ul style="list-style-type: none"> <li>M. Damons and H. Dube</li> </ul>	<p>1. Target partially achieved - Documents awaited from NPA to complete review</p> <p>2. Target achieved</p>
	BBBEE status review of all s56 and s57 port facilities and service providers for ports of Durban / Richards Bay complete and commence other ports	<p>1. Richards Bay and Durban BBBEE status review complete</p> <p>2. East London / PE / Ngqurha compliance review completed</p>	<ul style="list-style-type: none"> <li>50% - 4th Q</li> <li>25% - 4th Q</li> </ul>	<p>1. Target achieved (100%)</p> <p>2. Target achieved (100%)</p>	Target achieved for 4th quarter for Durban and Richards Bay but not for the remaining ports	None	<ul style="list-style-type: none"> <li>M. Damons and H. Dube</li> </ul>	<p>1. Target exceeded - Co-operation by regulated entity exceeded expectations</p> <p>2. Target exceeded - Co-operation by regulated entity exceeded expectations</p>
	Joint port traffic statistics review performed with DOT	Port traffic statistics review complete	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	Target achieved	Insufficient data	None	<ul style="list-style-type: none"> <li>C. Lotter &amp; M. Damons</li> </ul>	Target achieved

Strategic objective	Objective statement	KPI indicator	Target	Actual achievement	Risk	Action required	Responsible person	Reason for variance
Operating a tribunal to hear complaints and appeals under the National Ports Act.	Tribunal manual, training course (academic and experiential), international exposure and tutor support for new members and refresher for existing members	1. International Regulator academic and experiential training completed 2. Domestic tribunal training completed	<ul style="list-style-type: none"> <li>100% - 2nd Q</li> <li>100% - 3rd Q</li> </ul>	<ul style="list-style-type: none"> <li>1. Target Achieved - International course at London School of Economics provided for Regulator Members</li> <li>2. Experiential training provided at actual tribunal hearings domestically</li> </ul>	None	On-going training as new Members join the Regulator	<ul style="list-style-type: none"> <li>H. Dube &amp; M. Damons</li> </ul>	<ul style="list-style-type: none"> <li>1. Target achieved</li> <li>2. Target achieved</li> </ul>
	Tribunal to have at least 18 days availability in year	Tribunal availability 18 days	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	<ul style="list-style-type: none"> <li>Target achieved - 21 Member tribunal days</li> </ul>	Requirement may be greater than 18 days if certain matters move faster than expected	None	<ul style="list-style-type: none"> <li>H. Dube &amp; M. Damons</li> </ul>	Target achieved
	Amend directives to improve the functioning of the Tribunal	Amended tribunal process directives approved, consulted and published	<ul style="list-style-type: none"> <li>100% - 4th Q</li> </ul>	<ul style="list-style-type: none"> <li>Partially achieved: - All tribunal directives drafted - None published for comment</li> </ul>	None	Need to consult internally at Members level and publish	<ul style="list-style-type: none"> <li>H. Dube and M. Damons</li> </ul>	Partially achieved: <ul style="list-style-type: none"> <li>Members consultation required before publication</li> </ul>

## 5. Statement of estimated income and expenditure

Statement of Estimated Income and Expenditure	2014/15
<b>Revenue</b>	
Tax revenue	-
Non-tax revenue	-
Sale of goods and services other than capital assets	
of which:	
<i>Admin fees</i>	
<i>Sales by market establishments</i>	
<i>Other sales</i>	
<i>Other non-tax revenue</i>	303
Transfers received	16,852
<b>Total revenue</b>	<b>17,154</b>
<b>Expenses</b>	
Current expense	17,154
Compensation of employees	11,623
Goods and services	5,089
Depreciation	442
Interest, dividends and rent on land	
Interest	
Dividends	
Rent on land	
Transfers and subsidies	-
<b>Total expenses</b>	<b>17,154</b>
<b>Surplus / (Deficit)</b>	<b>-</b>

## 6. Programme for 2014/2015

### Annexure to Ports Regulator Annual Performance Plan 2014/2015

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
1. The running of an efficient and effective administration system	To expand and capacitate the organisation with technical and competent staff to enable it to fulfil its legislative mandate and reduce external resource utilisation and implementation of all staff benefits	Fill funded posts	Position of the CEO to be filled	Executive Manager: Policy, Strategy and Research and Intern Policy, Strategy and Research to be filled and advertise for Chief Financial Officer	Specialist Industry development to be filled	General Corporate Services Assistant to be appointed All positions for the year to be filled
		Skills development and training plan (SD&T) and HR Strategy developed and implemented for the period	SD&T Plan and HR strategy to be developed and approved by the Regulator members	SD&T plan and HR strategy to be implemented.	SD&T Plan to be reported on to Department and the Regulator	SD&T Plan and HR Strategy to be reviewed in order to meet requirements for the following year
	Maintain and improve where applicable staff benefits which have been implemented	To review staff benefits and improve on these where necessary and suitable for the organisation	Group life benefit to be reviewed	Source service providers who can offer improved benefits if at all to meet organisational requirements	Submission to the Members to alter staff benefits if appropriate	Consult and implement new benefit/s



Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
	Organisational and Employee performance management system (PMS) implemented	Organisational Performance scorecard reported on quarterly	Report on Q1 performance to the DOT and the Regulator	Report on Q2 performance to the DOT and the Regulator	Report on Q3 performance to the DOT and the Regulator	Report on Q4 and overall performance to the Regulator and the DOT
		Staff PMS implemented with performance contracts in place for each staff member	Performance contracts to be signed off by 30 April	Half yearly performance review to be undertaken in accordance with the policy	Management to review organisational performance in relation to individual performance to determine incentives	Final reviews to be undertaken and scoring forwarded to and assessed by HR
	Purchase scalable IT modules (low cost) in research, process and data management that are cost effective and appropriate for the Regulator	Research data analysis software procured and fully implemented.	Systems requirements developed	Receive quotes from proper procurement process	System to be procured	System implemented and functional
		Document management system procured and implemented	Systems requirements developed	Receive Quotes from proper procurement process	System to be procured	System implemented and functional
		1st phase Data management software and hardware procured and implemented	Systems requirements developed	Receive quotes from proper procurement process	System to be procured	System implemented and functional

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
	Tribunal case management system procured and implemented	Systems requirements developed and quotes received	System to be procured according to proper procurement process	System implemented and functional	Inputs into the system made and maintained	
	IT Governance Framework drafted and implemented	IT Governance Framework to be drafted and submitted to the Audit Committee for review	Changes implemented and consulted with staff	Submitted to Regulator members for approval	Framework implemented and annually updated where appropriate	
	Business Continuity and Disaster Recovery Plan drafted and implemented.	BCP and DRP to be drafted and submitted to the Audit Committee for review	Changes implemented and consulted with staff	Submitted to Regulator Members for approval	Framework implemented and annually updated where appropriate	
Preferential procurement in accordance with the regulatory framework and SCM policy	75% of discretionary procurement must be from BBBEE in accordance with the scoring in the regulatory framework	At least 20% of the procurement for this quarter must be from companies with a BEE rating of 2	At least 20% of the procurement for this quarter must be from companies with a BEE rating of 2	At least 20% of the procurement for this quarter must be from companies with a BEE rating of 2	At least 20% of the procurement for this quarter must be from companies with a BEE rating of 2	

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
	Obtain and maintain Clean Audit - ensure financial policies in place, approved and implemented to ensure compliance with the PFMA	Financial policies not having formed part of the finance review to be drafted, approved and implemented	Identified financial policies to be reviewed and drafted and submitted to Audit Committee	Financial policies to be consulted/workshopped with staff and submitted to Members for approval	Financial policies to be implemented and compliance monitored	Policies to be reviewed and updated if required
	Accurate and timely quarterly and financial reporting, as well as budgeting to Executive Authority	Quarterly reports to be sent to the Executive Authority on time and on budget	100% compliance with timelines set by legislation	100% compliance with timelines set	100% compliance with timelines set	100% compliance with timelines set
		Compliance with the PFMA in terms of time periods for submission of budgets and financial reports	100% compliance with timelines set by Treasury	100% compliance with timelines set by Treasury	100% compliance with timelines set by Treasury	100% compliance with timelines set by Treasury

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
	Effective risk management	Engage Department of Transport and Treasury to evaluate ways to supplement the Regulator's funding to ensure sustainability	Risk mitigation strategy to be developed and risk management progress reported on for the quarter	Risk strategy implemented and reported on quarterly to the Audit Committee.	Risk strategy implemented and reported on quarterly to the Audit Committee	Risk strategy implemented and reported on quarterly to the Audit Committee
	Engagement with the Executive Authority regarding a sustainable funding model for the organisation especially in the medium term	Engage Department of Transport and Treasury to evaluate ways to supplement the Regulator's funding to ensure sustainability	Develop funding model using various scenarios and submit to the DOT with the Members approval	Engage with DOT and Treasury on the model and legislative requirements	Consult industry and stakeholders	Funding Model to be finalized and implemented
2. Improvement of economic regulation of ports (price, access, institutional structure)	Medium-term Tariff Methodology developed, consulted and approved	Methodology decision and publication	Medium term Tariff Methodology developed, consulted and approved	Methodology implemented	Tariff Application in line with the methodology-100%	Tariff Application assessed in line with the methodology

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
	Tariff Strategy consulted and finalised	Medium to long term Tariff Strategy to be developed and approved by the Accounting Authority and consulted with the Executive Authority	Tariff Strategy drafted	Strategy consulted on with the stakeholders and industry	Strategy amended where required and submitted for approval to the Regulator Members	Strategy to be implemented and tariff book amended in accordance therewith
	Perform NPA 2015/2016 Tariff Assessment	Tariff decision and ROD publication	Engage with National Ports Authority on pending Tariff application	Receive Tariff application and start assessing same in accordance with the methodology	First draft submitted to the Regulatory Committee for discussion and engagement on the issues	Final determination submitted to the Members for approval and ROD published 100%
	Engagement with Executive Authority on integrated tariff methodology principles for the Single Transport Economic Regulator beyond medium term.	Long term integrated tariff approach agreed with DOT	Provide comments on the draft Bill as well as comments received from stakeholders	Develop integrated tariff methodology for the STER and submit to the DOT	Publish and consult key stakeholders on draft methodology	Publish final agreed methodology

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
	Annual Global Tariff Comparator Study for at least five commodity types. i.e. coal, iron-ore, automotives, liquid bulk, containers	31 March 2015 Global Port Pricing Comparator completed for 5 cargo/commodity types	Complete research for benchmarking review for coal and iron-ore 25%	Complete research for automotives and liquid bulk 50%	Complete benchmarking research for containers and compile results 75%	Write up results and data and publish 100%
3. Industry development and Infrastructure planning integration and efficiency	Joint port traffic statistics review performed with DOT	Complete traffic statistics review for liquid bulk and thereafter upscale	Obtain data from NPA and DOT and compare 25%	Compile data 50%	Write up review and engage with DOT 75%	Publish review 100%
	Support the Maritime Industry Development Programme initiatives of the DOT.	Provide support required by DOT in the industry at the PCC meetings as well as the NPCC meetings	Attend quarterly PCCs and report on relevant matters affecting the port industry to DOT and which may inform the Regulator's mandate	Attend quarterly PCCs and report on relevant matters affecting the port industry to DOT and which may inform the Regulator's mandate	Attend quarterly PCCs and report on relevant matters affecting the port industry to DOT and which may inform the Regulator's mandate	Attend Quarterly PCCs and the NPCC meetings and provide advice to the DOT where required and input into the meetings.

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
	Medium term port benchmarking review 2014/15	Perform by 31 March 2015 full port benchmarking review on marine, terminal infrastructure services with a shared efficiency research component	Start review and monitor Terminal Operators Performance standards and Marine Operators Performance standards processes and develop reporting and filing instruments	National Ports Authority to report on performance of Terminal and Marine operators and benchmark against other ports	Compile report on the review and submit to board for discussion and engagement	Publish review
	Port capacity and utilisation review 2014/15	Perform capacity and utilisation review 2014/15	Start review and engage NPA for capacity and utilisation data	Continue to receive data from the NPA and start drafting review report	Receive data from the NPA for the 3rd Quarter performance and project for 4th Q. Write up results and consult NPA and submit to Members for approval to publish	Submit review report to the DOT and publish 100%
	Asset Valuation Project to be completed and results published	Asset Valuation Project to be completed and results published	Service providers are to have been appointed and project started in the new FY	Valuation to be completed by service providers and reports rendered to the Regulator	Results to be shared with NPA and engage with the NPA on results of the project and impact on the tariff	Publish report 100%

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
4. Monitoring the port industry and its compliance with the National Ports Act, Port Policy and other Regulatory Instruments.	Draft recommended amendments report to the Ports Act are required to enhance the power of the Regulator to police decisions made by it as well as enhance its governance structures in compliance with overarching legislation.	Various provisions of the Ports Act, 12 of 2005 are outdated and additional provisions are to be added in line with shortcomings identified by the Regulator	Amendments report to be drafted and sent to the DOT	Engage with DOT and consult relevant stakeholders	Finalise Amendments	Submit to DOT to be tabled in Parliament
	Complete 100% of the compliance review of Durban and Richard's Bay and commence other ports	Richard's Bay and Durban port level compliance review to be completed	Workplan with milestones provided to NPA and request s56 agreements and s57 licences and leases to review 25%	Review documents requested and prepare gap analysis. File documents received	Start preparing report on level of compliance, submit to Members and engage NPA on gaps	Prepare and publish final report 100%



Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
	Commence review of East London/PE/Nquga/Saldanha and Mossel Bay: Compliance workplan to be drafted and approved	Map out process for these ports	Engage NPA legal department and prepare workplan for these ports and submit to Members	Request documentation and assess whether further capacity required to perform ongoing review. Embark on process to recruit additional capacity	Start review of these ports	
BBBEE status review of all s56 and s57 port facilities and service providers for all the ports.	Richard's Bay and Durban BBBEE status review to be completed	Develop format for reporting in line with Regulator's compliance framework	Engage NPA on new format. Amend and provide NPA with final reporting format	Review report from the NPA and request further information if necessary. Submit to board.	Publish compliance findings in this regard on website.	
	Commence East London/PE/Nquga, Saldanha and Mossel Bay BBBEE review	Develop format for reporting same as Durban and Richards Bay	Submit to NPA and allow time for reporting – deadline November 2014	Review report and engage NPA on gaps identified	Submit to Regulator Members and publish report	

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
	Revise Directives on compliance filings by all port industry participants, tribunal procedures and enforcement of decisions by the Regulator	Revised Directives published for comment	Develop draft directives	Draft consulted on with the NPA and published for industry comment	Amendments effected where required and submitted for approval to the Regulator members	Directives gazetted and implemented 100%
	Organisation to ensure compliance with all legislation applicable to it in terms of its core mandate and its operations	Legislative Framework to be developed implemented and updated annually  Ensure good governance in compliance with King Code and PFMA and Governance Policy developed	Legislative Framework developed and submitted to Audit Committee for approval	Policy gap analysis performed in line with legislative framework	Submit final document to Members for approval	Ensure implementation and reviewed for updates if required

Strategic Objective	Objective Statement	KPI Indicator	Target			
			Q1	Q2	Q3	Q4
5. Operating an effective and efficient tribunal to hear complaints and appeals under the National Ports Act	Tribunal to be consistently operated to hear complaints and appeals and Tribunal members to undergo ongoing training to ensure efficient and effective decision making.	Regulator members to receive ongoing training on judicial processes	Relevant training sourced and members engaged on availability	Members and/or staff to attend relevant training.	Ongoing training needs monitored and sourced where gaps are identified	Report on training for the year 100%
		Draft and finalise submission for additional commissioners to assist members on tribunal matters	Develop draft and engage CCMA and the Competition Commission	Action points emerging from engagements and submit to Members for sign-off	Amend Directives in line with outcomes and submit to DOT for approval	Directives to be gazetted 100%
	Tribunal to have at least 18 days availability in the year	Timeous selection and availability of Members for approximately three days per matter estimated at six matters to be heard per year	Two matters to be heard	Two matters to be heard	Two matters to be heard	Decisions to be rendered on all matters 100%

**Annual Financial Statements  
for  
The Ports Regulator of South Africa  
for the Year ended 31 March 2014**

## Table of Contents

Report of the Accounting Authority	46
Report of the Auditor-General	47
Statement of Financial Performance	50
Statement of Financial Position	51
Statement of Changes in Net Assets	52
Statement of Cash Flow	53
Statement of Comparison to Budget	54
Notes to the Annual Financial Statements	55-64

## The Ports Regulator of South Africa

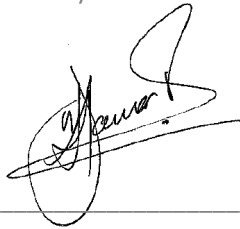
### REPORT OF THE ACCOUNTING AUTHORITY for the year ended 31 March 2014

The Regulator Members are responsible for the maintenance of adequate accounting records and the preparation and integrity of the financial statements and related information. The auditors are responsible for reporting on the fair presentation of the financial statements. The financial statements have been prepared in accordance with Generally Recognised Accounting Practice (GRAP) issued by the Accounting Standards Board in accordance with Section 91 of the Public Finance Management Act, 1999 (Act No.1 of 1999)(PFMA).

The Regulator Members are also responsible for the system of internal financial control. These are designed to provide reasonable, but not absolute, assurance as to the reliability of the financial statements, and to adequately safeguard, verify and maintain accountability of the assets, and prevent and detect misstatements and loss. Nothing has come to the attention of the Members to indicate any material breakdown in the functioning of these controls, procedures and systems during the year under review.

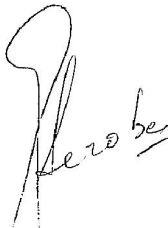
#### Approval

The financial statements for the year ended 31 March 2014 as set out on pages 46 to 64 were approved by the Regulator on 29 May 2014.



---

Marissa Damons  
Acting Chief Executive Officer



---

Gloria Tomatoe Serobe  
Chairperson of the Regulator

## **REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON PORTS REGULATOR OF SOUTH AFRICA REPORT ON THE FINANCIAL STATEMENTS**

### **Introduction**

1. I have audited the financial statements of the Ports Regulator of South Africa set out on pages 46 to 64, which comprise the statement of financial position as at 31 March 2014, the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget information with actual information for the year then ended, as well as the notes, comprising a summary of significant accounting policies and other explanatory information.

### **Accounting authority's responsibility for the financial statements**

2. The accounting authority is responsible for the preparation and fair presentation of these financial statements in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA) and for such internal control as the accounting authority determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error

### **Auditor-general's responsibility**

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA), the general notice issued in terms thereof and International Standards on Auditing. Those standards require that I comply with ethical requirements, and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion

### **Opinion**

6. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Ports Regulator of South Africa as at 31 March 2014 and its financial performance and cash flows for the year then ended, in accordance with SA Standards of GRAP and the requirements of the PFMA.

## REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

7. In accordance with the PAA and the general notice issued in terms thereof, I report the following findings on the reported performance information against predetermined objectives for selected objectives presented in the annual performance report, non-compliance with legislation as well as internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

### Predetermined objectives

8. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information for the following selected objectives presented in the annual performance report of the entity for the year ended 31 March 2014:
- Objective : economic regulation on pages 26 to 28
  - Objective: monitoring on pages 29
  - Objective : tribunal on page 30
9. I evaluated the reported performance information against the overall criteria of usefulness and reliability.
10. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned objectives. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant, as required by the National Treasury's Framework for managing programme performance information (FMPPI).
11. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
12. I did not raise any material findings on the usefulness and reliability of the reported performance information for the selected objectives.

### Additional matters

13. Although I raised no material findings on the usefulness and reliability of the reported performance information for the selected objectives, I draw attention to the following matters:

### Achievement of planned targets

14. Refer to the annual performance report on pages 28 to 36 for information on the achievement of the planned targets for the year.

### Adjustment of material misstatements

15. I identified material misstatements in the annual performance report submitted for auditing on the reported performance information for the selected objectives. As management subsequently corrected the misstatements, I did not raise any material findings on the usefulness and reliability of the reported performance information.



### Compliance with legislation

16. I performed procedures to obtain evidence that the entity had complied with applicable legislation regarding financial matters, financial management and other related matters. My findings on material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA, are as follows:

### Annual financial statements

17. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework, as required by section 55(1) (b) of the PFMA. Statement of comparison of budget and actual amounts were not included in the financial statements and material misstatements of revenue and related party disclosures identified by the auditors in the submitted financial statements were corrected, resulting in the financial statements receiving an unqualified audit opinion.

### Internal control

18. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with legislation. The matters reported below are limited to the significant internal control deficiencies that resulted in the findings on non-compliance with legislation included in this report.

### Financial and performance management

19. The financial statement contained omissions of statement of comparison of actual and budgeted amounts and related party disclosures. The entity did not prepare financial statements in accordance with accounting framework as material misstatements of revenue were identified.
20. The annual performance report did comply with the National Treasury annual report guide. Reasons for variances were not presented and reported targets were not measurable.

*Auditor-General*

Pietermaritzburg

31 July 2014



AUDITOR - GENERAL  
SOUTH AFRICA

*Auditing to build public confidence*

The Ports Regulator of South Africa

STATEMENT OF FINANCIAL PERFORMANCE  
for the year ended 31 March 2014

	<i>Notes</i>	<b>2014</b> R'000	<b>2013</b> R'000
<b>REVENUE</b>			
<i>Non-exchange revenue</i>			
Transfers and subsidies	2	15 900	15 069
<i>Exchange revenue</i>			
Sale of goods and rendering of services	3	275	339
Interest, dividends and rent on land		-	20
		275	319
<b>TOTAL REVENUE</b>		<b>16 175</b>	<b>15 407</b>
<b>EXPENDITURE</b>			
Administration expenses	4	1 508	1 900
Staff costs	5	7 185	5 670
Audit fees		247	219
Gifts		-	2
Other operating expenses	6	7 385	6 339
<b>TOTAL EXPENDITURE</b>		<b>16 325</b>	<b>14 130</b>
<b>SURPLUS/ (DEFICIT) FOR THE PERIOD</b>		<b>(150)</b>	<b>1 277</b>

The Ports Regulator of South Africa

STATEMENT OF FINANCIAL POSITION  
at 31 March 2014

	<i>Notes</i>	<b>2014</b> R'000	<b>2013</b> R'000
<b>ASSETS</b>			
<b>Non-current assets</b>		<b>1 080</b>	<b>1 020</b>
Property, plant and equipment	7	1 060	909
Intangible asset	8	18	109
Loans and receivables	9	2	2
<b>Current assets</b>		<b>7 219</b>	<b>6 593</b>
Trade and other receivables	10	25	266
Cash and cash equivalents	11	7 194	6 687
<b>TOTAL ASSETS</b>		<b>8 299</b>	<b>7 973</b>
<b>LIABILITIES</b>			
<b>Current liabilities</b>		<b>1 703</b>	<b>1 227</b>
Bank – credit card account	12	0	54
Trade and other payables	13	1 482	765
Provisions	14	221	408
<b>TOTAL LIABILITIES</b>		<b>1 701</b>	<b>1 227</b>
<b>NET ASSETS</b>			
<b>CAPITAL AND RESERVES</b>			
Accumulated surplus		6 596	6 746
<b>TOTAL NET ASSETS</b>		<b>6 596</b>	<b>6 746</b>
<b>TOTAL NET ASSETS AND LIABILITIES</b>		<b>8 299</b>	<b>7 973</b>

The Ports Regulator of South Africa

STATEMENT OF CHANGES IN NET ASSETS  
for the year ended 31 March 2014

	R'000 Accumulated Surplus
<b>Opening balance at 1 April 2012</b>	5 469
Surplus for the year	1 279
Change in accounting policy	<u>(2)</u>
<b>Balance as at 01 April 2013</b>	6 746
Surplus/(Deficit) for the period	(150)
<b>Closing balance as at 31 March 2014</b>	<u><u>6 596</u></u>

The Ports Regulator of South Africa

**CASH FLOW STATEMENT**  
for the year ended 31 March 2014

	<i>Note</i>	<b>2014</b> <b>R'000</b>	<b>2013</b> <b>R'000</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts		15 900	15 089
Transfers received		15 900	15 069
Other income		-	20
<b>Payments</b>		<b>(15 216)</b>	<b>(14 229)</b>
Employee cost		(7 188)	(5 670)
Suppliers and other payments		(8 028)	(8 559)
		-	
Net cash flows from operations		684	860
Interest paid		-	-
Finance income		275	319
<b>Net cash flow available from operating activities</b>		<b>959</b>	<b>1 179</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Acquisition of :			
Property, plant and equipment	7	(375)	(250)
Intangible assets	8	(23)	(12)
<b>Net cash flows from investing activities</b>		<b>(398)</b>	<b>(262)</b>
Net increase in cash and cash equivalents		561	917
Cash and cash equivalents at beginning of the year		6 633	5 716
<b>Cash and cash equivalents at end of year</b>		<b>7 194</b>	<b>6 633</b>

The Ports Regulator of South Africa

STATEMENT OF COMPARISON TO BUDGET  
for the year ended 31 March 2014

Actual 2013	Economic Classification	Actual Amount	Approved Budget	Variance
<b>Revenue</b>				
15 069	Transfers	15 900	15 900	0
319	Interest Received	275	283	8
1	Sundry Income	0	0	0
19	Sale of Goods and Services	0	30	30
<u>15 407</u>		<u>16 175</u>	<u>16 213</u>	<u>38</u>
<b>Expenses</b>				
347	Depreciation and Amortisation	337	400	63
5 670	Compensation of Employees	7 188	10 392	3 204
8 113	Goods & Services	8 800	5 421	(3 379)
<u>14 130</u>		<u>16 325</u>	<u>16 213</u>	<u>(112)</u>
<u><b>1278</b></u>	<b>Surplus/(Deficit)</b>	<u><b>(150)</b></u>	<u><b>0</b></u>	<u><b>(74)</b></u>

\*Please refer to Note 20 of the annual financial statements for a detailed variance analysis between budget and actual amounts.

## **1 Accounting Policies**

### **1.1 Basis of preparation**

The annual financial statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention unless specified otherwise.

These annual financial statements have been prepared in accordance with Generally Recognised Accounting Practice (GRAP), issued by the Accounting Standards Board in accordance with Section 91 of the Public Finance Management Act, 1999 (Act No.1 of 1999) (PFMA).

The principal accounting policies, applied in the preparation of these annual financial statements, are set out below. These accounting policies are consistent with those applied in the preparation of the prior year annual financial statements, unless specified otherwise. Details of any changes in the accounting policies are provided in notes.

When the presentation or classification of items in the annual financial statements is amended, prior period comparative amounts are also reclassified and restated, unless such comparative reclassification and / or restatement is not required by a Standard of GRAP. The nature and reason for such reclassifications and restatements are also disclosed.

Assets, liabilities, revenues and expenses have not been offset except when offsetting is required or permitted by a Standard of GRAP.

The accounting policies applied are consistent with those used to present the previous year's financial statements, unless explicitly stated. The details of any changes in accounting policies are explained in the relevant policy.

The cash flow statement has been prepared in accordance with the direct method.

### **1.2 Presentation currency**

All amounts have been presented in the currency of the South African Rand (R) which is also the functional currency of the Ports Regulator.

### **1.3 Rounding**

Unless otherwise stated all financial figures have been rounded to the nearest one thousand Rand (R'000).

### **1.4 Standards, Amendments to standards and interpretations issued but not yet Effective**

The following Standards of GRAP and / or amendments thereto have been issued by the Accounting Standards Board, but will only become effective in future periods or have not been given an effective date by the Minister of Finance. The entity has not early-adopted any of these new Standards or amendments thereto, but has referred to them for guidance in the development of accounting policies in accordance with GRAP 3 as read with Directive 5: GRAP 18 (Segment reporting)

### **1.5 Property, plant and equipment**

Property, plant and equipment are tangible non-current assets that are held for use in the production or supply of goods or services, rental to others, or for administrative purposes and are expected to be used during more than one year.

Items of property, plant and equipment are initially recognised as assets on acquisition date and are initially recorded at cost where acquired through exchange transactions. However, when items of property, plant and equipment are acquired through non-exchange transactions, those items are initially measured at their fair values as at the date of acquisition.

The cost of an item of property, plant and equipment is the purchase price and other costs directly attributable to bring the asset to the location and condition necessary for it to be capable of operating in the manner intended by the entity. Trade discounts and rebates are deducted in arriving at the cost at which the asset is recognised. The cost also includes the estimated costs of dismantling and removing the asset and restoring the site on which it is operated. Depreciation is calculated on the depreciable amount, using the straight-line method over the estimated useful lives of the assets. Components of assets that are significant in relation to the whole asset and that have different useful lives are depreciated separately. The depreciable amount is determined after taking into account an assets' residual value, where applicable for the entity

Office furniture and fittings	- 8 years
Computer equipment	- 3 years
Motor vehicles	- 5 years

The useful lives of property, plant and equipment and their residual values are reassessed at the end of each financial year. Where the carrying amount of an asset is greater than its estimated recoverable amount, it is written down immediately to its recoverable amount (i.e. impairment losses are recognised).

## 1.6 Intangible assets

An intangible asset is an identifiable non-monetary asset without physical substance. The entity recognises an intangible asset in its Statement of Financial Position only when it is probable that the expected future economic benefits or service potential that are attributable to the asset will flow to the entity and the cost or fair value of the asset can be measured reliably.

Intangible assets are initially recognised at cost.

Where an intangible asset is acquired by the entity for no or nominal consideration (i.e. a non-exchange transaction), the cost is deemed to be equal to the fair value of that asset on the date acquired.

The cost of an intangible asset is amortised over the useful life where that useful life is finite. The amortisation expense on intangible assets with finite lives is recognised in the Statement of Financial Performance in the expense category consistent with the function of the intangible asset.

Amortisation is charged to write off the cost of intangible assets over their estimated useful lives using the straight-line method.

Intangible assets	- 2 years
-------------------	-----------

## 1.7 Provisions

Provisions are recognised when:

- An entity has a present obligation as a result of a past event;
- it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and
- a reasonable estimate can be made of the obligation

## 1.8 Leases

The Ports Regulator is a lessee for the office accommodation.

Assets subject to operating leases, i.e. those leases where substantially all of the risks and rewards of ownership are not transferred to the lessee through the lease, are not recognised in the Statement of Financial Position. The operating lease expense is recognised over the course of the lease arrangement.

Operating lease payments are recognised in the statement of financial performance on a straight – line basis over the term of the lease.

## 1.9 Financial instruments

Financial instruments are initially recognised at cost.

### 1.9.1 Trade and other receivables

Trade and other receivables are categorised as financial assets: loans and receivables and are initially recognised at fair value and subsequently carried at amortised cost. Amortised cost refers to the initial carrying amount, plus interest, less repayments and impairments. Amounts that are receivable within 12 months from the reporting date are classified as current.

### 1.9.2 Trade and other payables

Financial liabilities consist of trade payables and borrowings. They are categorised as financial liabilities held at amortised cost, are initially recognised at fair value and subsequently measured at amortised cost which is the initial carrying amount, less repayments, plus interest.

## 1.10 Cash and cash equivalents

Cash includes cash with banks. Cash equivalents are short-term highly liquid investments, readily convertible into known amounts of cash, which are held with registered banking institutions.

## 1.11 Fruitless and wasteful expenditure

Fruitless and wasteful expenditure is expenditure that was made in vain and would have been avoided had reasonable care been exercised. Fruitless and wasteful expenditure is accounted for as expenditure in the Statement of Financial Performance and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

## 1.12 Revenue recognition

Revenue from non-exchange transaction arises when the entity either receives value from another entity without directly giving approximately equal value in exchange or gives value to another entity without directly receiving approximately



equal value in exchange.

An asset that is recognised as a result of a non-exchange transaction is recognised at its fair value at the date of the transfer. Consequently, revenue arising from a non-exchange transaction is measured at the fair value of the asset received, less the amount of any liabilities that are also recognised due to conditions that must still be satisfied.

Revenue from exchange transactions refers to revenue that accrues to the entity directly in return for services rendered or goods sold, the value of which approximates the consideration received or receivable, excluding indirect taxes, rebates and discounts.

Revenue from exchange transactions is only recognised once all of the following criteria have been satisfied:

- a) The entity retains neither continuing managerial involvement to the degree usually associated with ownership nor effective control over the goods sold;
- b) The amount of revenue can be measured reliably; and
- c) It is probable that the economic benefits or service potential associated with the transaction will flow to the entity and the costs incurred or to be incurred in respect of the transaction can be measured reliably.

### 1.13 Related Parties

The entity has processes and controls in place to aid in the identification of related parties. A related party is a person or an entity with the ability to control or jointly control the other party, or exercise significant influence over the other party, or vice versa, or an entity that is subject to common control, or joint control. Related party relationships where control exists are disclosed regardless of whether any transactions took place between the parties during the reporting period.

	<b>2014</b>	<b>2013</b>
	<b>R'000</b>	<b>R'000</b>
<b>2 Transfers received</b>		
Department of Transport	<u>15 900</u>	<u>15 069</u>
<b>3 Other income</b>		
Complaint lodging fee	-	19
Sundry income	-	1
	<b>2014</b>	<b>2013</b>
	<b>R'000</b>	<b>R'000</b>
<b>4 Administrative expenses</b>		
Accounting fee	-	-
Regulator members' remuneration	587	495
Bank charges	18	15
Entertainment	70	3
Internal audit	305	72
Legal fees	9	190
Stationery and printing	99	110
Subscriptions	196	475
Training and staff development	101	377
Venues and facilities	123	163
	<u><b>1 508</b></u>	<u><b>1 900</b></u>
<b>5 Staff costs</b>	<b>2014</b>	<b>2013</b>
Salaries and wages	6 195	4 687
Performance bonus/awards	523	-
Employer contributions	470	208
Retirement due to ill-health/death	-	775
	<u><b>7 188</b></u>	<u><b>5 670</b></u>

## 6 Other operating expenses

Advertising		385	553
Amortisation		114	132
Bursary		-	23
Catering		23	36
Communication costs		201	196
Computer expenses		237	157
Conferences		3	5
Consultants		2 441	882
Consumables		22	15
Couriers and delivery charges		27	18
Contracted and temporary employees		-	-
Depreciation		223	215
Fruitless and wasteful expenditure	<i>Note 21</i>	-	-
Hardware		-	4
Insurance		63	63
Maintenance and repairs		27	21
Motor vehicle expenses		9	8
Municipal services		69	58
Functions and events		-	25
Rental		1 332	1 169
Resettlement costs		-	140
Travel, subsistence and disbursements Staff		1 716	1 339
Travel, subsistence and disbursements Regulator members		493	1 280
		<u>7 385</u>	<u>6 339</u>

## 7 Property, plant and equipment

<b>2014</b>	<b>Cost</b>	<b>Accumulated depreciated</b>	<b>Carrying value</b>
	<b>R'000</b>	<b>R'000</b>	<b>R'000</b>
Computer equipment	2 346	(1 872)	474
Office furniture and fittings	992	(514)	478
Motor vehicle	74	(29)	45
	179	(116)	63
	<u>3 591</u>	<u>(2 531)</u>	<u>1 060</u>
<b>2013</b>	<b>Cost</b>	<b>Accumulated depreciated</b>	<b>Carrying value</b>
	<b>R'000</b>	<b>R'000</b>	<b>R'000</b>
Computer equipment	1 972	(1 791)	181
Office furniture and fittings	992	(399)	593
Books	74	(21)	53
Motor vehicle	179	(97)	82
	<u>3 217</u>	<u>(2 308)</u>	<u>909</u>

## Reconciliation of property, plant and equipment

	Opening carrying value R'000	Disposal R'000	Additions R'000	Depreciation R'000	Closing carrying value R'000
Computer equipment	180	-	374	(80)	474
Office furniture & fittings	593	-	-	(115)	478
Motor vehicle	82	-	-	(19)	63
Books	53	-	-	(8)	45
	<u>908</u>	<u>-</u>	<u>374</u>	<u>(222)</u>	<u>1060</u>

## 8 Intangible asset

2014	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer software	<u>395</u>	<u>(377)</u>	<u>18</u>

2013	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer software	<u>372</u>	<u>(263)</u>	<u>109</u>

## Reconciliation of Intangible assets Computer software

	Opening carrying value R'000	Disposal R'000	Additions R'000	Amortisation R'000	Closing carrying value R'000
Computer software	<u>109</u>	<u>-</u>	<u>23</u>	<u>(114)</u>	<u>18</u>

## 9 Loans and other receivables

	2014 R'000	2013 R'000
<b>Non current</b>		
Deposit	<u>2</u>	<u>2</u>
<b>Current</b>		
Other receivables	<u>-</u>	<u>-</u>

<b>10 Trade and other receivables</b>	<b>2014</b>	<b>2013</b>
Prepaid expenditure	25	266

<b>11 Cash and cash equivalents</b>	<b>2014</b>	<b>2013</b>
Bank balances		
Standard bank cheque account	80	518
Standard bank Investment account	7114	6169
	<u>7194</u>	<u>6687</u>
Standard bank credit card account	<u>-</u>	<u>(54)</u>

<b>12 Trade and other payables</b>	<b>2014</b>	<b>2013</b>
	<b>R'000</b>	<b>R'000</b>
Accruals	1179	765
Receiver of Revenue	303	-
Department of Transport	-	-
- Amounts receivable at beginning of the year	-	-
- Transactions for the year	-	-
	<u>1482</u>	<u>765</u>

### **13 Operating lease commitments**

The Ports Regulator entered into a three year operating lease agreement with Old Mutual Properties that commenced on 1 October 2013 for R102 184.85 per month including vat with an escalation clause of 9% annually.

Minimum lease payments due	<b>2014</b>	<b>2013</b>
- not later than one year	1287	593
- later than one year and not later than five years	2118	-
- later than five years	-	-
	<u>3405</u>	<u>593</u>

<b>14 Leave pay provision</b>	<b>2014</b>	<b>2013</b>
Carrying amount at the beginning of the period	408	252
Additional provisions made in the current period	-	-
Amount utilised in the current period	187	156
Carrying amount at the end of period	<u>221</u>	<u>508</u>

Leave pay provision comprises the value of leave days owing to employees as at 31 March 2014.

<b>15 Cash generated from operations</b>	<b>2014</b>	<b>2013</b>
Surplus for the year	(150)	1279
<b>Non cash/ working capital changes</b>	1109	(100)
Depreciation	223	193
Amortisation	114	132
Increase / (Decrease) in payables	724	(435)
(Decrease) / Increase in provisions	(187)	155
(Increase) / Decrease in receivables	241	145
(Increase) / Decrease in inventory	-	-
<b>Net cash flow from operating activities</b>	<b>959</b>	<b>1179</b>

<b>16 Regulator Members' remuneration</b>	<b>No of individuals</b>		
Members	9*	587	495
* There is a total of 9 Regulator Members. Mr Fakir, being a representative of the Presidency, is not remunerated.			

<b>Member</b>	<b>2014</b>	<b>2013</b>
G Serobe	53	45
R Howard	103	57
P Langeni	43	32
T Tsautse	94	91
A Ngcobo	95	88
G Steyn	61	74
A Mahlalutye	56	55
P Mazibuko	82	51
Total	587	495

<b>17 Executive member's remuneration</b>	<b>No of individuals</b>		
Chief executive officer	2	1967	1884

\*Mr Riad Khan's employment contract expired on 15 July 2013 and Marissa Damons, Executive Legal, was appointed acting Chief Executive Officer effective 10 August 2013 until the end of the Financial year and includes her acting allowance only.

<b>Marissa Damons</b>	<b>2014</b>	<b>2013</b>
Basic Salary	524	-
Acting Allowance	255	-
Taxable allowance	204	-
Medical Aid Allowance	28	-
<b>Total</b>	<b>1 011</b>	<b>-</b>

<b>Riad Khan</b>	<b>2014</b>	<b>2013</b>
Basic Salary	594	1 884
Leave Pay	362	-
<b>Total</b>	<b>956</b>	<b>1 884</b>

## 18 Contingent liabilities

There were no contingent liabilities as at 31 March 2014.

## 19 Reconciliation of budget surplus/deficit with Statement of Financial Performance

Ports Regulator presents its approved budget on a cash basis and the financial statements on the accrual basis

Economic Classification	Reason for Variance
<b>Revenue</b>	
Transfers	n/a
Interest Received	Interest is based on the investment balance kept by the entity
Sundry income	n/a
Sale of goods & services	There were no complaints/appeals that were submitted to the entity during the financial year.
<b>Expenses</b>	
Depreciation & amortisation	Difference was caused by some planned purchases that did not take place.
Personal costs	The CEO post was vacant for 8 months in the year, plus 2 other posts that were not filled by year end.
General expenses	The entity was allowed to retain unspent surplus funds; therefore majority of expenditure was on projects that were partly funded by the unspent funds and savings from employee costs and any other savings on the budget.

20 Unauthorised, irregular and fruitless and wasteful expenditure	2014 R'000	2013 R'000
Fruitless and wasteful expenditure	-	<u>8</u>

Fruitless and wasteful expenditure refers to interest and penalties incurred in respect of late payment to SARS.

\*the figure of R 8000 relates to the interest and penalty that was incurred during the 2012 fiscal year when the transfer of funds was made from Nedbank to Standard bank resulting in delays to pay over the liability to SARS for April 2013, due to change in bank accounts.

## 21 Taxation

No provision is made for taxation as the entity is exempt from taxation per Section 10(1) a of the Income Tax Act.

## 22 Risk management

### Interest rate risk

2014

2013

As the entity has no significant interest-bearing assets, the entity's income and operating cash flows are substantially independent of changes in market interest rates.

### Liquidity risk

2014

2013

The entity's risk to liquidity is a result of the funds available to cover future commitments. The entity manages liquidity risk through an ongoing review of future commitments and credit facilities.

Cash flow forecasts are prepared and adequate utilised borrowing facilities are monitored.

The entity relies solely on transfers from the parent Department of Transport. These transfers are transferred by the Department to the entity at the beginning of each quarter to fund the cash flows for that specific quarter. Any delays in transfers may cause cash flow risks to the entity. The Table below analyses the entity's financial liabilities into relevant maturity groupings based on the remaining period at the Statement of Financial Position to the contractual maturity date. The amounts disclosed in the Table are the contractual undiscounted cash flows.

### Not later than one month

2014

2013

#### Payables

1 482

765

### Maximum credit risk exposure

2014

2013

Credit risk consists mainly of cash deposits, cash equivalents. The entity only deposits cash with major banks with high quality credit standing and limits exposure to any one counter-party.

The financial assets carried at amortised cost expose the entity to credit risk. The value of the maximum exposure to credit risk are as follows for each of classes of financial assets at amortised cost:

Cash and cash equivalents

7 194

6 687

Trade and other receivables from exchange transactions

25

266

The entity has sufficient insurance cover and sufficient funds to service its financial liabilities.

### 23 Related party transactions

There were related party transactions relating to the transfers of funds from the Department of Transport to the Ports Regulator as per the voted funds in the appropriation statement:

Description of transaction	2014	2013
Transfers from the Department of Transport	15 900	15 069

### 24 Correction of error

At the beginning of the financial year, the Ports Regulator corrected an error for library books as well as the biometric finger access system. The books were erroneously classified as inventory and were then changed to be classified as Property, Plant and Equipment. This change arose as a result of GRAP standards application in order to achieve accurate and complete financial reporting. The finger access system was previously expensed under maintenance account and was then capitalised to property, plant and equipment. The effect of the change in accounting policy is as follows:

	2013
<b>Statement of financial performance</b>	
Depreciation	(22)
Maintenance of assets	20
<b>Statement of Financial position</b>	
Inventory	(74)
Property Plant and Equipment	94
Accumulated depreciation	22