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# Ports Regulator of South Africa

Ports Regulator of South Africa - S30(6) & S44 Report 2016/17 - (Incorporating the Annual Report in terms of the PFMA)

## S30 (6) & S44 REPORT 2016/17

(Incorporating the Annual Report in terms of the PFMA)

## VISION

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

## MISSION

The Mission of the Ports Regulator of South Africa 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, 12 of 2005 ("the Act").

## VALUES

The Ports Regulator of South Africa 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 resource s.

## STRATEGIC OBJECTIVES

The strategic objectives of the Ports Regulator of South Africa 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 focussed on delivery;
- Ensuring that all port sector participants comply with the Act; and
- Supporting the development of the port system and the port regulatory system architecture.



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## 1. Chairperson's FOREWORD

The Ports Regulator (the Regulator) aims to reduce the cost of doing business with South Africa (SA), as well as to reduce the cost of exporting SA manufactured products to the world, through a fair and well-structured tariff methodology on which tariff determinations are based. In July 2015, the Regulator published South Africa's long term Port Tariff Strategy, which seeks to reform port infrastructure pricing over a ten-year period, bringing greater fairness, cost reflectiveness, and predictability into the South African port system. Furthermore, the Tariff Strategy is not unresponsive to South Africa's economic growth and job creation imperatives and maintains much lower prices for highly beneficiated South African manufactured cargo in export containers as well as SA manufactured export vehicles, in support of local manufacture and industrialization.

Also in support of economic development, the Regulator has introduced an incentive for the registration of cargo carrying commercial vessels on the SA flag. The growing number of ships taking up this opportunity will improve SA's involvement in the maritime sector, increasing jobs, skills, and supply chain opportunities to South Africans beyond our boundaries. The Regulator has also in the past year ensured that automotive industry cargo dues equalized at a 60% discounted level. This contributes to reducing the cost of doing business for smaller SA auto manufacturers. In this regard, the Regulator is in the process of developing an overarching framework for tariff incentives, the Port Tariff Incentive Programme (PTIP) which was published for comment and will be finalised during the course of 2017/18.

The Regulator's existence has resulted in a significantly lower approved tariff structure in turn resulting in a saving of more than R6bn to port users over the years, whilst still maintaining the continued sustainability of the National Ports Authority. It continues to be proactive and risk mitigating and maintains

an Excessive Tariff Increase Margin Credit (ETIMC) of more than R2bn available to offset future increases. In fact, the 2017/18 tariff adjustment to a below inflation increase would not have been as low if it were not for the use of the ETIMC.

Over recent years, the organisation produced the first Port Sector Review, and the Regulatory Review completed through various stakeholder consultations and surveys. The Regulator further contributed to the success of the National Development Plan and SA's economic success with its Global Ports Pricing Comparator Study, the Capacity Utilisation study for SA ports, and the Ports Efficiency Benchmarking Study. The Regulator's compliance monitoring work included an audit of B-BBEE compliance in the ports, and an analysis of compliance with the National Ports Act. Furthermore, the Regulator has proposed to the Department of Transport suggested amendments to the National Ports Act.

It has been just under three years since the Regulator published its first multi-year Tariff Methodology, and 2016/17 saw the publication of the Regulator's second multi-year Tariff Methodology. The tariff process continued its open and public approach, conducting public hearings for both the Tariff Methodology as well as the Tariff Determination around the South Africa at key centres, namely Durban, Cape Town, Port Elizabeth, and Johannesburg.

Delivery targets have been met or exceeded in the past year and the Regulator achieved a "Clean Audit" for the third time, improving on its consistent "unqualified audit" status in previous years. In the years ahead, the Regulator intends to expand its role in the transformation and B-BBEE participation of the sector whilst continuing its analytical and compliance work. We hope to be able to enhance the capacity of the Regulator as required by the NDP, fill key unfunded posts,

and strive to retain the skills we have assembled as greater financial resources become available.

I would like to recognise the efforts of the Regulator Members, its staff and its management for their work in contributing

towards and ensuring the success of the Regulator. I would like to thank the Minister, Deputy Minister and the Department of Transport, and on behalf of the Ports Regulator ask for their continued guidance, support and assistance in the journey ahead.



**THABA MUFAMADI**  
Chairperson  
Ports Regulator of South Africa



Port Visit - Chairperson of the Ports Regulator, Port Manager of Richards bay, CEO OF Ports Regulator & the GCEO of Transnet on Port oversight visits in Richards bay.

## 2. CHIEF EXECUTIVE OFFICER'S REPORT

Having come from a recent past in which the Regulator published amongst others, a ten-year Port Tariff Strategy, a Ports Sector Review, a Regulatory Review, as well as studies benchmarking South African ports to their global peers both with respect to pricing as well as performance, the past year was dedicated mainly to the final phase of the Tariff Strategy process. Namely, the development of a new Tariff Methodology, the start of a process of re-valuation of the NPA asset base, and the development of a framework for port tariff incentives that would cater for beneficiation and other economic imperatives that are in the public interest.

As part of regulatory re-design, the Tariff Methodology was widely consulted through road-shows, written submissions by port users, presentations by economists, industry experts, and other academics at our road-shows, and published for comment in March 2017. In addition to attention on the regulatory architecture and associated pricing and performance studies, the Regulator spent much effort on its legal compliance and tribunal function as well as on crafting amendments to the National Ports Act which will assist in better regulation, and which are expected to be taken forward by the DoT through the necessary Parliamentary processes in the 2017/18 financial year.

In terms of the assessment of the Regulator's work, stakeholder feedback at the Tariff Methodology as well as the Tariff Application roadshows continued to indicate high regard for the Regulator with scores averaging in the region of 80%. The Ports Regulator again

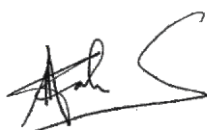
received a "Clean Audit" certificate from the AG this year (for 2016/17), the third since the organisation was established.

I would like to thank my staff and senior management for their dedicated service beyond the call of duty in their ongoing achievement of the deliverables set out in the Annual Performance Plan and more.

I would like to thank the Chairperson Mr Thaba Mufamadi and Regulator Members for their effort and commitment in accomplishing their difficult tasks in the year that has passed, and hope that the enthusiasm and collective wisdom they have shown will continue to benefit the ports sector in the years to come

I express my gratitude for the guidance and support of The Minister, Deputy Minister, and the management and staff of the DoT, and look forward to working together to enhance and capacitate the Ports Regulator and the maritime sector as a whole.

In the year ahead the Regulator will focus on the implementation of the Tariff Strategy in bringing about cost reflective tariffs and assisting the South African economy by progressively reducing the cost of doing business with the world. Many other important initiatives will be focussed on, including the implementation of B-BBEE targets as envisaged in Regulations to the National Ports Act and in the interests of the radical economic transformation objectives of government. We will continue to enhance the internal capacity of the Regulator, and strive to achieve the deliverables set out in the Strategic Plan and Annual Performance Plan.



**Mahesh Fakir**  
**CEO & Accounting Officer**  
**Ports Regulator of South Africa**





Ports Regulators Staff Members handing out information brochures to school pupils at the World Maritime Day Expo in Gariep Dam



Regulator Chairperson, CEO and Members at the Press Conference held on 01 December 2016 to announce the Tariff Record of Decision

### 3. CORPORATE REPORT

The Regulator is the independent South African economic regulator for the ports industry. This organisation came into being on 04 August 2005 on the promulgation of the Act. The establishment of the Regulator was a key component of the ‘White paper on National Commercial Ports Policy, 2002’. The Act and the policy establishes the institutional framework for the ports industry, as well as articulating a range of mechanisms critical 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 Regulator coming into effect on 06 August 2009.

The Regulator’s administration was empowered significantly when the new Members of the Regulator were appointed by the Minister of Transport in September 2015. The Regulator, during the course of the 2015/16 financial year, was operating with a total of six Regulator Members resulting in extreme administrative pressure in terms of quorum for meetings and tribunal panels. Section 31 (1)(a) of the Act states that: ‘The Regulator consists of a chairperson and a minimum of six and a maximum of twelve other members appointed by the Minister for a period of up to five years’. With the appointment of the new Members in September, the Regulator is currently operating with a total of eleven Members, including the Chairperson. This was viewed as extensively resourcing the entity in terms of governance and resources.

#### THE MEMBERS OF THE PORTS REGULATOR DURING 2016 / 2017:

- MR. THABA MUFAMADI (CHAIRPERSON);
- MR. AUBREY NGCOBO;
- MS. PATRICIA MAZIBUKO;
- MR. ANDILE MAHLALUTYE;
- MS. THATO TSAUTSE;
- PROFESSOR. W. DIDIBHUKU THAWALA;
- MS. Gerdileen TAYLOR;
- MR. RIAD KHAN;
- MR. LINDELWE MABANDLA;
- MS. GUGU THIMANE;
- MS. ANJUE HIRACHUND; AND
- MR. MAHESH FAKIR (EX-OFFICIO MEMBER CHIEF EXECUTIVE OFFICER).





**Mr. Thaba Mufamadi**  
Chairperson



**Mr. Aubrey Ngcobo**  
Audit Committee



**Mr. Riad Khan**  
Regulatory Committee



**Mr. Andile Mahlalutye**  
Audit Committee



**Ms. Patricia Mazibuko**  
Human Resource  
Committee (Chairperson)



**Ms. Thato Tsautse**  
Regulatory Committee  
(Chairperson)



**Ms. Anjue Hirachund**  
Audit Committee



**Mr. Lindelwe Mabandla**  
Human Resource  
Committee



**Prof. Didibhuku Thawala**  
Regulatory Committee



**Ms. Gerdileen Taylor**  
Regulatory Committee



**Adv. Gugu Thimane**  
Human Resource  
Committee



**Mahesh Fakir**  
CEO & Accounting Officer

## 4. KEY ACTIVITIES AND OUTPUTS IN THE MANDATE AREAS OF THE PORTS REGULATOR:

### 4.1. ADMINISTRATION

The new Regulator Members have since worked tirelessly to grasp the business processes of the Regulator, as well as to ensure delivery of the Performance Agreement and the Annual Performance Plan (APP). Administratively, the Secretariat has developed new policies and procedures and at the same time reviewed those already in existence. Further, strategies and frameworks have been updated in order to guide business processes with regards to the finance, human resource, information technology, and risk management functions of the entity. The constant maintenance in terms of compliance and reviews has resulted in a system of strong internal controls and adequate governance practices ensuring minimal instances of non-compliance by the Regulator.

#### 4.1.1. FINANCIAL MANAGEMENT

Section 42 (1) of the Act makes provision for the Regulator's funding. According to the Act, the funds of the Regulator consist of: (a) Money appropriated by Parliament; (b) interest on investments; and (c) fees charged for the filing of complaints or appeals with the Regulator. However, as evidenced in the financials of previous years, these monies are not always adequate for the operations of the Regulator.

As a result, several projects were previously put on hold until additional funding was received. In an attempt to mitigate this issue, a new draft funding model was prepared, aimed at reducing its burden on the fiscus by proposing that a small regulatory fee be charged to the regulated entity.

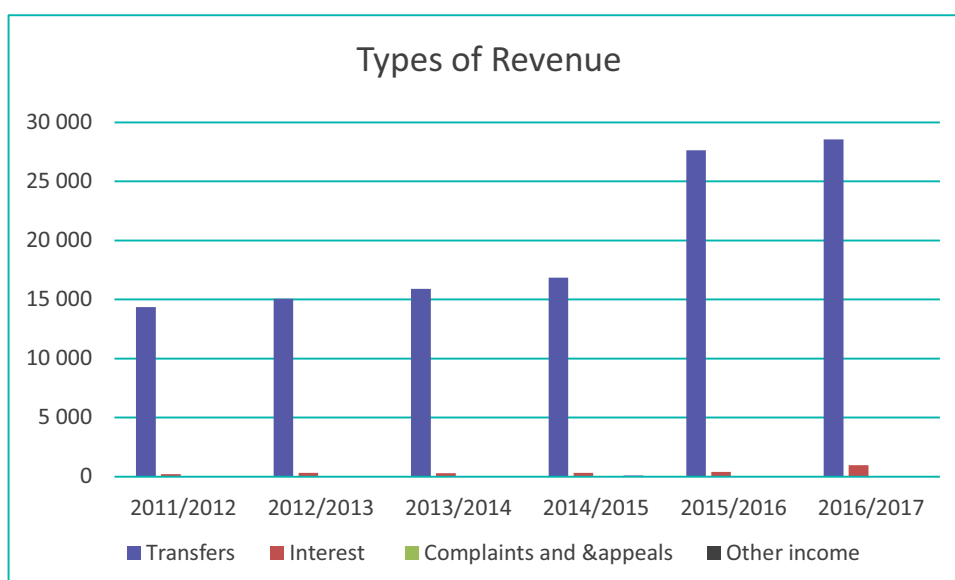
A number of alternate options were presented to the Shareholding Minister at the previous Annual General Meeting ('AGM') and were further presented to the Portfolio Committee on Transport. However, implementation of the funding model will require amendments to the Act and it is understood that such a process may take a considerable amount of time. Therefore, the the Department of Transport was requested to reprioritise their budget and increase the baseline allocation by R 10 million rand a year. This was to have been an interim measure until the new funding model is approved and implemented.

Further, National Treasury's Instruction Note 03 of 2015/16, regarding over expenditure by public entities, has made it increasingly difficult for entities to spend reserves and thus the Regulator may find itself with a going-concern problem. Measures were put in place during the MTEF budget process to request further baseline funding to the Regulator in order to ensure continued sustainability.

During the 2017 Medium-Term Expenditure Framework ('MTEF') budget process, an amount of R3m, R5m, and R 10 million rand was allocated by the Department of Transport to the Regulator over the three year medium term from 2017/18.

The Figure below indicates the revenue position for the past six financial years.

Figure 1: Revenue Generated by the Regulator



The Table below indicates the revenue types actually generated during the year and the previous year.

Table 1: Income Classification for the Regulator

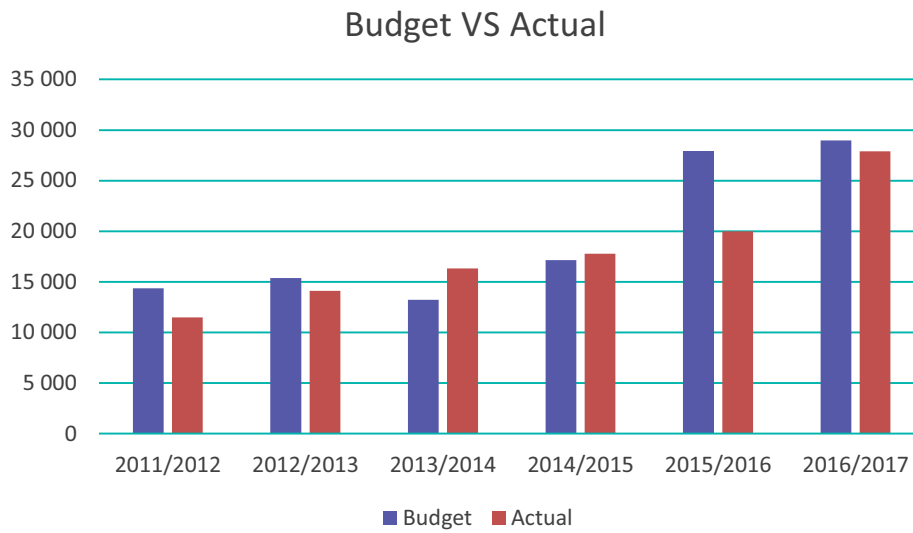
Item	2016/2017	R (000)	2015/2016	R (000)
Department of Transport Transfers		28 561		27 627
Interest income		957		466
Complaints and Appeals		7		-
Sundry Income		0		-
Profit/(Loss) on disposal of asset		(27)		19
<b>Total</b>		<b>29 498</b>		<b>28 112</b>

The Regulator has applied all possible measures to ensure that the expenditure is within the approved budget in order to avoid over expenditure on the total budget. Table two below, illustrates the expenditure pattern of the Regulator for the past six financial years. The observations and concerns made by the new Regulator Members were communicated to the the Minister of Transport; the Members noted that the situaton may adversely impact on the delivery of the APP and the Performance Agreement. The Members concerns were coupled with the request to revise the baseline allocation by an amount of R 10 million in order to prevent reliance on reserves for the funding of additional activities required during the course and scope of efficient port regulation services.

As can be seen from Table 2, once off funding amounts of R10m were allocated in 2015/16 and 2016/17, which whilst useful to the organisation, did not facilitate the sustainable appointment of additional staff much needed to capacitate the Regulator and fill unfunded vacancies on the organogram. The once-off funding also results in a significant drop in funding levels for the 2017/18 year as compared to 2016/17 despite the the baseline increases of R3m, R5m, and R10m as can be

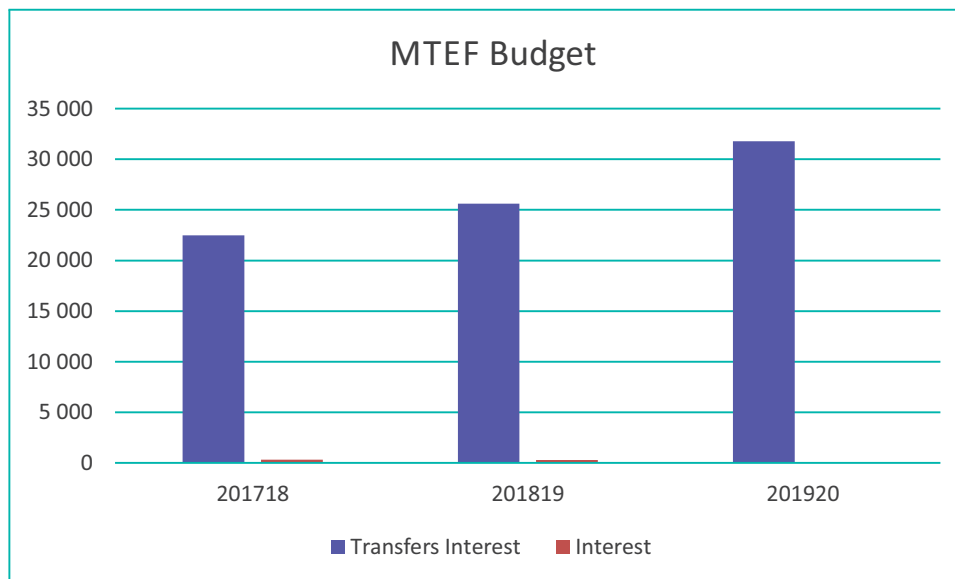
seen from Table 3. Thus it was further requested that the Department of Transport increase the baseline for the next medium-term period.

Table 2: Expenditure vs. Budget



The Table below indicates the budget for the MTEF.

Table 3: Medium-Term Expenditure Framework Budget



### 4.1.2. HUMAN RESOURCE MANAGEMENT

The 2016/17 financial year has been extremely successful for the Regulator in terms of human resource management from a governance perspective. The full compliment of Members smoothed the way for increased compliance and a more effective manner in which the mandate of the Regulator could be discharged.

The Human Resource Strategy developed by the organisation, sets out the basic principles in which the vision and mission of human resources is identified. The Strategy aims to guide the management of employees, the development of in-house skills, the management of employee-related risks, as well as the ongoing practice of increasing employee satisfaction and well-being within the workplace.

Furthermore, the Regulator believes in investing into the training and development of staff and the Regulator Members. Skills development and training was aimed at enhancing employee’s abilities in order to achieve self growth and job efficiency.

The Regulator has managed to balance its employment equity status, as at 31 March 2017, in accordance with its Employment Equity Plan. This was achieved through the diversification of the work-force to include all work-groups. This is done as required by the Employment Equity legislation and the Employment Equity report lodged with the Department of Labour.

The Regulator has, furthermore, ensured that all funded vacant posts were filled. However, it must be noted that as at 31 March 2017, there are ten posts not funded on the organogram and have not thus been filled, and can only progressively be realised with greater levels of baseline funding.

Table 4: Employment Equity Breakdown

2016/2017 Employment Equity Breakdown of Staff:					
Category	Black Female	Black Male	White Female	White Male	Category Total
Technical & Managerial	57.90%	31.58%	6.67%	5.67%	79.00%
Support & Interns	100%	0%	0%	0.0%	21.00%
<b>Total</b>					<b>100%</b>

Table 5: Employment Equity Statistics

Employment Equity Statistics	2016/2017	2014/2015
<b>Category:</b>		
Black Male	31.48%	23.53%
Black Female	58.00%	58.83%
White Male	5.26%	5.88%
White Female	5.26%	11.76%
<b>Total</b>	<b>100%</b>	<b>100%</b>

Table 6: Executive management earnings for the financial year 2016/17

Name	Remuneration R (000)	Performance Bonus R (000)	Acting allowance R (000)	Leave Pay R (000)	Total R (000)
Mr. Mahesh Fakir Chief Executive Officer	2 459	341	0	0	2 800
Ms. M Damons Executive Manager: Legal	1 174	192	0	0	1 366
Mr. Thokozani Mhlongo Chief Financial Officer	1 062	173	0	0	1 235
<b>Total</b>	<b>4 695</b>	<b>706</b>	<b>0</b>	<b>0</b>	<b>5 401</b>



The Ports Regulator Chairperson, CEO and National Ports Authority CEO and CFO at the SA Shipyards on Port oversight visit

### 4.1.3. SUPPLY CHAIN MANAGEMENT

The Regulator accelerated on its mandate in terms of delivery of services to the port’s stakeholders. The Supply Chain Management (‘SCM’) unit awarded three tenders during the financial year; the provision of IT equipment, the provision of in-house office supplies, and the Valuation of Assets project. There have been no instances of fruitless, wasteful, irregular and unauthorised expenditure identified during the financial year.

Table 7: Percentage of B-BBEE of Procurement

B-BBEE AS A PERCENTAGE OF PROCUREMENT CATEGORY:	2016/2017	2015/2016
Discretionary Expenditure	98.00%	81.33%
Total Expenditure	45.00%	39.00%

## 4.2. GOVERNANCE AND COMPLIANCE

The Members of the Regulator are tasked with implementing the mission, vision, and strategies of the organisation determined in line with government’s strategic objectives, in order to fulfil its core mandate, as articulated in Section 30. An important objective of the Regulator was to strengthen the governance and compliance of the Regulator. In light of audit outcomes, one can confidently state that the Regulator has achieved a desirable position as required by legislation to achieve a fully compliant governance regime. This was mainly influenced by the optimisation of limited resources, and the commitment of both Members and management to ensure overall good governance and compliance with its legislative framework.

In the 2016/17 financial year, the Members of the Regulator, through the Audit Committee have instituted quarterly governance reporting as well as a ‘hands on’ approach to risk management. The issues that were raised by the Auditor-General as well as the Internal Auditors as non-compliance items were systematically addressed resulting in the organisation obtaining a ‘clean audit opinion.’

In light of the fact that the Regulator is a Schedule 3A public entity in terms of the Public Finance Management Act (PFMA), together with the King III Code and now the King IV Code on Governance, the duty placed on the Regulator Members and the CEO is to be accountable, responsible, transparent and to act with integrity in the best interests of the organisation.

The Members of the Regulator were appointed by the Minister of Transport for a three year term commencing on 01 September 2015. In terms of the PFMA, as well as the KingII land the latest King IV Code on Governance which applies to all public entities, the Members of the Regulator are mandated with two main functions: Firstly, they are responsible for determining the organisation’s strategic direction (and consequently its ultimate performance), and secondly, they are responsible for the control of the organisation through its various sub-committees, and the other assurance providers in the form of both internal and external auditors. Management’s role is to execute strategic decisions made by the Regulator and implement the controls across the organisation effectively and in accordance with the law and the legitimate interests and expectations of its stakeholders.

From a governance compliance perspective, the Regulator has achieved a fully compliant position with three effective sub-committees, each with specific Terms of Reference and a Code of Conduct. The Regulator and its sub-committees meet quarterly to ensure their obligations are met and the targets of the organisation achieved, as well as to ensure the risks faced by the organisation in their various spheres are addressed.

It can be confidently stated that the Members have discharged their duties in terms of ensuring that all their deliberations, decisions, and actions were based on the four foundational principles of good governance.

### ALIGNMENT TO KING III:

The Table below reflects the areas where the Regulator governance practices comply with the provisions contained in the King III Code on Governance as well as the PFMA.

Table 8: Alignment with King III

King III Ref.	King III Principle	Partially Applied/Not Applied	Commentary
<b>CHAPTER 1– ETHICAL LEADERSHIP AND CORPORATE CITIZENSHIP</b>			
Principle 1.1	The Regulator Members (Directors) of the public entity provide effective leadership based on ethical foundation.	Applied	The Regulator confirms its commitment to the highest standards of corporate governance. The Regulator Charter and Code of Conduct adopted by the Regulator sets the ethical foundation for how the entity operates.
Principle 1.2	The Regulator ensures that the entity is and is seen to be a responsible corporate citizen.	Applied	This is achieved through the Regulator Charter and the Code of Conduct, which sets the policy framework and through specific operational and corporate office structures, more fully described in the Audit and Risk report.
Principle 1.3 & Principle 2.3	The Regulator ensures that the entity’s ethics are managed effectively, and provides effective leadership based on an ethical foundation.	Applied	Through the Code of Conduct, the Regulator is responsible for ensuring that the entity protects, enhances and contributes to the wellbeing of the economy, society and the environment.
<b>CHAPTER 2– BOARDS AND DIRECTORS</b>			
Principle 2.1	The Regulator acts as the board for the organisation and is the custodian of corporate governance for the entity.	Applied	The Regulator ensures that the organisation applies the governance principles contained in King III and continues to further entrench and strengthen recommended practices through the organisation’s governance structures, systems, processes and procedures.
Principle 2.2	The Regulator provides effective strategic leadership,	Applied	The Regulator, as a whole and through its Committees, approves



King III Ref.	King III Principle	Partially Applied/Not Applied	Commentary
	and appreciates that strategy, risk, performance and sustainability are inseparable.		and monitors the implementation of the Strategy and Annual Performance Plan of the entity, sets objectives, reviews key risks, evaluates performance against the background of economic, global and social issues relevant to the entity.
Principle 2.5	The Regulator ensures that the entity's ethics are managed effectively.	Partially Applied	Through the Regulator's Code of Conduct. However the organisation does not have a separate code of business ethics.
Principle 2.6	The Regulator has ensured that the entity has an effective and independent audit committee.	Applied	The Regulator Charter and Audit and Risk Committee Terms of Reference provide for the establishment of an Audit and Risk Committee. The effectiveness of the Committee is evaluated annually by the Members. The Auditor General oversees that this is complied with.
Principle 2.7	The Regulator is responsible for the governance of risk.	Applied	In terms of the Regulator Charter, the Regulator is responsible for the governance of risk and the Audit and Risk Committee assists the Regulator with this responsibility.
Principle 2.8	The Regulator is responsible for Information Technology (IT) governance.	Applied	The IT Governance Framework, including processes, procedures and structures, was adopted by the Regulator which delegates implementation to management. In terms of the Regulator Charter and the Audit and Risk Committee Terms of Reference, the Audit and Risk Committee assists the Regulator with information technology governance.
Principle 2.9	The Regulator ensures that the entity complies with applicable laws and considers adherence to non-binding rules, codes and standards.	Applied	The Legislative Framework approved by the Regulator sets out the requirement of legal compliance and provides for the entity to develop and implement policy. The entity has a Legal and Regulatory Compliance department, which updates and ensure the implementation of the framework. Implementation will begin to be monitored by the Management Risk Committee and reported on to the Audit Committee.

King III Ref.	King III Principle	Partially Applied/Not Applied	Commentary
Principle 2.10	The Regulator should ensure that there is an effective risk-based internal audit.	Applied	The organisation has an internal audit function which was provided by Deloitte in the 2015/16 financial year. The Internal Audit Charter requires the performance of risk based internal audits.
Principle 2.11	The Regulator should appreciate that stakeholder' perceptions affect the entity's reputation.	Applied	The entity engages its stakeholders on multiple levels and this allows the entity to manage issues effectively and timeously and reduces the likelihood of reputational risks. Stakeholder engagements are a standing item in the Management Report to the Regulator at each meeting.
Principle 2.12	The Regulator should ensure the integrity of the entity's annual/integrated report.	Applied	With the assistance of independent assurers such as EY and the internal auditors, the Audit and Risk Committee and other Regulator Committees review and evaluate the Annual Reports prior to recommendation for adoption by the Regulator.
Principle 2.13	The Regulator reports on the effectiveness of the entity's internal controls.	Applied	The internal auditor submits formal reports to the Audit and Risk Committee quarterly. The Members' report in the Integrated Annual Report, includes the Audit and Risk Committee's confirmation of having received the internal auditor's written assessment of the effectiveness of the Company's systems of internal controls.
Principle 2.14	The Regulator and its Members should act in the best interests of the public entity.	Applied	Members are mindful of their fiduciary duties and their duty to act in accordance with applicable legislation. Records of Members' financial interests are kept and updated on an annual basis. The Regulator as a whole acts as a steward of the entity and each Member acts with independence of mind in the best interests of the entity and its stakeholders. In its deliberations, decisions and actions, the Regulator is sensitive to the legitimate interests and expectations of its stakeholders.
Principle 2.16	The Minister (in terms of the Act, has elected a Chairperson	Applied	The entity has an Executive Chairperson as recommended by

King III Ref.	King III Principle	Partially Applied/Not Applied	Commentary
	of the Regulator who is an independent non-executive director. The CEO of the entity does not also fulfil the role of chairperson of the Regulator.		King III. In terms of the Regulator Charter, the roles of the Executive Chairperson and Chief Executive Officer are separate and clearly defined.
Principle 2.17	The Regulator has a framework for the delegation of authority which is updated annually.	Partially Applied	While retaining overall accountability and subject to matters reserved to itself, the Regulator has delegated authority to the CEO, other Executive Managers to run the day-to-day affairs of the entity subject to an approval framework. However, this not updated annually and is somewhat out of date.
Principle 2.18	The Regulator comprises of a majority of non-executive members who are independent.	Applied	The Regulator had six non-executive Members up until 31 August 2015. A new Regulator was appointed effective 01 September 2015 consisting of 11 members.
Principle 2.19	Members are appointed through a formal process.	Applied	To ensure a rigorous and transparent process, any new appointment of a Regulator Member is considered by the Minister of Transport in accordance with the Act based on a call for nominations. The selection process involves considering the existing balance of skills and experience on the Regulator and a continual process of assessing the needs of the organisation.
Principle 2.20	The induction of and ongoing training, as well as the development of directors are conducted through a formal process.	Applied	A formal induction programme is available for new Members, including background material and meetings with senior executives. All Members are invited on site visits and to the annual Regulator (strategy meeting) with senior management. Ongoing training includes workshops presented by external advisors and additional training is facilitated as required.
Principle 2.21	The Regulator is assisted by a competent, suitably qualified and experienced Company Secretary. The Company Secretary is duly appointed by the Regulator in accordance with the entity's recruitment policies.	Applied	The Company Secretary is duly appointed by the Regulator in accordance with the Companies Act and the JSE Listings Requirements and is evaluated annually. The Regulator is satisfied that the Company Secretary is properly qualified and

King III Ref.	King III Principle	Partially Applied/Not Applied	Commentary
			experienced to competently carry out the duties and responsibilities of a Company Secretary.
Principle 2.22	The evaluation of the Regulator, its committees, is performed every year.	Applied	The performance of the Regulator as a whole and the Regulator Committees individually is evaluated annually.
Principle 2.23	The Regulator delegates certain functions to well-structured committees without abdicating its own responsibilities.	Applied	The Regulator has three Committees that assist it in discharging its duties and responsibilities. These Committees operate in accordance with written terms of reference approved by the Regulator and reviewed annually.
Principle 2.26	The Regulator has disclosed the remuneration of each individual Member and prescribed officer.	Applied	The remuneration of Members is included in the Members' Remuneration report contained in the Annual Report.
<b>CHAPTER 3 - AUDIT COMMITTEES</b>			
Principle 3.1	The Regulator has ensured that the entity has an effective and independent audit committee.	Applied	The Regulator Charter and Audit and Risk Committee Terms of Reference provide for the establishment of an Audit and Risk Committee. The effectiveness of the Committee is evaluated annually by the Members, assessed by internal auditors who assist the Committee in complying with its Terms of Reference.
Principle 3.2	Audit Committee Members are suitably skilled and experienced.	Applied.	All Members of the Audit and Risk Committee are independent non-executive Members, who sit as Members of other Audit Committees and suitably skilled to fulfil the mandate of the committee.
Principle 3.3	The Audit Committee is chaired by an independent non-executive Member.	Applied	The Regulator has appointed a suitably qualified Independent Non-executive Director to chair the Audit and Risk Committee.
Principle 3.4	The Audit Committee oversees annual reporting.	Applied	The Audit and Risk Committee has oversight over the preparation of the Annual Report including the annual financial statements and sustainability information, and

King III Ref.	King III Principle	Partially Applied/Not Applied	Commentary
			recommends the approval of the Annual Report to the Regulator.
Principle 3.5	The Audit Committee has ensured that a combined assurance model has been applied which provides a co-ordinated approach to all assurance activities.	Applied	The entity has implemented a combined assurance model with the assistance of Deloitte as the 2015/16 internal auditors and the Auditor General as the external auditors whose input and input is monitored by the Audit and Risk Committee.
Principle 3.7.	The Audit Committee is responsible for overseeing the internal audit process.	Applied	The Audit and Risk Committee is responsible for overseeing the internal audit function performed by Deloitte in the 2015/16 financial year, including the approval of the annual plan and budget. The internal auditor reports to the Audit and Risk Committee quarterly in terms of the Internal Audit Charter. The head of internal audit reports directly to the Committee Chairperson.
Principle 3.8	The Audit Committee is an integral component of the risk management process.	Applied	The Audit and Risk Committee is responsible for overseeing risk management. Management reports to the Audit and Risk Committee quarterly on risk matters and processes.
Principle 3.10	The Audit Committee reports to the Regulator and the Shareholders as to how it has discharged its duties.	Applied	The Audit and Risk Committee reports to the Regulator at each Regulator meeting. A report to shareholders on how the Committee discharged its duties is included in the Audit and Risk Committee Report in the Annual Report.
<b>CHAPTER 4 –THE GOVERNANCE OF RISK</b>			
Principle 4.1	The Regulator is responsible for the governance of risk.	Applied	In terms of the Regulator Charter, the Regulator is responsible for the governance of risk and the Audit and Risk Committee assists the Regulator with this responsibility.
Principle 4.4	The Regulator has delegated to management the responsibility to design, implement and monitor the risk management plan.	Applied	The Management Risk Committee reports quarterly to the Audit and Risk Committee in terms of the Risk Management Plan approved annually by the Audit and Risk Committee. In terms of the Audit and Risk Committee Terms of

King III Ref.	King III Principle	Partially Applied/Not Applied	Commentary
			Reference, management designs, implements and monitors the plan and is accountable for embedding the risk management process in the business.
Principle 4.5 and 4.7	The Regulator must ensure that risk assessments are performed on a continual basis.	Applied	Risk Assessments performed annually. Risk is addressed in terms of the risk plan and implementation of controls monitored by management.
Principle 4.9	The Regulator receives assurance regarding the effectiveness of the risk management process.	Applied	The internal audit function provides assurance to the Audit and Risk Committee and the Regulator regarding the efficacy of the risk management process.
<b>CHAPTER 5 – IT GOVERNANCE</b>			
Principle 5.1	The Regulator is responsible for IT governance.	Applied	The IT Governance Framework, including processes, procedures and structures, was adopted by the Regulator which delegates implementation to management. In terms of the Regulator Charter and the Audit and Risk Committee Terms of Reference, the Audit and Risk Committee assists the Regulator with information technology governance.
Principle 5.2.	IT has been aligned with the performance and sustainability objectives of the entity.	Applied	The IT Governance Framework, including the information technology strategy and procedures, ensure alignment with the performance and sustainability of the entity.
Principle 5.4	The Regulator monitors and evaluates significant IT investments and expenditure.	Applied	The framework includes the management of information assets and expenditure. There is a capital approval process in place and a specific approval process is followed for disposals.
Principle 5.6	The Regulator ensures that information assets are managed effectively.	Applied	The IT governance Strategy delegates the implementation thereof to management, who reports thereon to the Regulator where appropriate.
<b>CHAPTER 6 – COMPLIANCE WITH LAWS, CODES, RULES AND STANDARDS</b>			
Principle 6.1	The Regulator ensures that the entity complies with applicable laws and considers adherence to non-binding rules, codes and standards.	Applied	The entity has a Legal and Regulatory Compliance division which has developed the legal and regulatory universe applicable to the Regulator. Implementation of

King III Ref.	King III Principle	Partially Applied/Not Applied	Commentary
			the framework is monitored by the Audit and Risk Committee.
Principle 6.2.	The Regulator and each individual Member has a working understanding of the effect of applicable laws, rules, codes and standards on the organisation and its business.	Partially applied	On-going Regulatory training is provided. Updates in applicable laws, rules and codes are to be included on the agendas of Regulator and Sub-committee meetings.
Principle 6.3.	Compliance risk should form an integral part of the entity's risk management process.	Applied	The risk of non-compliance forms part of the operational risk assessments and compliance assessments are performed. Annually by the legal division. The risk of non-compliance is included on the Principal Risk Register.
<b>CHAPTER 7– INTERNAL AUDIT</b>			
Principle 7.1.	The Regulator should ensure that there is an effective risk based internal audit.	Applied	The Internal Audit Charter requires the performance of risk based internal audits.
Principle 7.2.	Internal Audit should follow a risk based approach to its plan.	Applied	The risk based internal audit plan is approved annually by the Audit and Risk Committee.
Principle 7.3.	Internal Audit should provide a written assessment of the effectiveness of the entity's system of internal controls and risk management.	Applied	The internal auditor submits formal reports to the Audit and Risk Committee quarterly. On an annual basis (in the Annual Report), the Audit and Risk Committee confirms having received the internal auditor's written assessment of the effectiveness of the entity's systems of internal controls and risk management.
Principle 7.5.	Internal Audit should be strategically positioned to achieve its objectives.	Applied	The Chief Audit Executive reports directly to the Chairperson of the Audit Committee and is invited to attend all Audit Committee meetings.
<b>CHAPTERS 8 &amp; 9 –STAKEHOLDER RELATIONSHIPS AND INTEGRATED REPORTING AND DISCLOSURE</b>			
Principle 8.1. & 8.2	The Regulator must take into consideration stakeholder perceptions that affect the organisation's reputation and delegate to management the authority to deal with these relationships.	Applied	The entity engages its stakeholders on multiple levels and this allows the entity to manage issues effectively and timeously and reduces the likelihood of reputational risks. Stakeholder engagement is a standing Regulator agenda item.
Principle 9.1	The Regulator should ensure the integrity of the entity's annual report.	Applied	With the assistance of the Auditor General and the Audit and Risk Committee and other sub-

King III Ref.	King III Principle	Partially Applied/Not Applied	Commentary
			committees who review and evaluate the Annual Report prior to recommendation for adoption by the Regulator.
Principle 9.2.	Sustainability reporting and disclosure should be integrated with the entity's financial reporting.	Not applied	The organisation is still fairly new and is progressing towards sustainability reporting.

#### 4.2.1. COMPLIANCE MONITORING OF THE NATIONAL PORTS AUTHORITY

The Compliance function of the organisation fulfils two key roles: Firstly, to ensure that the NPA complies with the Act and its broader legislative framework where it impacts on its mandate in terms of Section 11; and secondly to ensure and advise on matters of internal compliance by the Regulator with its own legislative framework with its key pieces of legislation being the National Ports Act, the Public Finance Management Act, the Labour Relations Act, 66 of 1995, and the Basic Condition of Employment Act, 75 of 1997, the Promotion of Access to Information Act, 2 of 2000 as well as the Promotion of Administrative Justice Act, 3 of 2000 amongst others.

The Regulator further managed to make significant progress in its compliance function, managing to review compliance by the NPA with the Act on a quarterly basis monitoring compliance in all commercial ports. The NPA is engaged on an ongoing basis on findings thereon to enable increased compliance. This is due to the compliance monitoring approach that the Regulator has adopted which means co-ordinating compliance across the ports system by working with the regulated entity to increase compliance. This being a milestone achievement for the organisation.

A further aspect of compliance monitoring is to ensure the NPA complies with Regulations 2, 3 and 4 in terms of the Act, the intention of which is to encourage transformation within the port sector. This aspect requires the NPA to report on the Broad-Based Black Economic Empowerment ('B-BBEE') status of those who provide port services or operate port facilities within the port boundaries of all eight commercial ports, to ensure compliance with the requirements set out in the aforementioned Regulations. In terms of achieving this target, the compliance team amended the reporting template provided to the NPA to ensure that more detailed information was provided to the Regulator and that the information provided was more accurate and delineated per port. The NPA successfully reported in accordance with the amended reporting template within the set timeframes and were given an opportunity to respond to the review findings ahead of same being published. This again being a milestone achievement for the organisation in terms of assessing the accuracy and usefulness of the NPA's report regarding its B-BBEE compliance, despite the NPA reporting year on year on its level of compliance overall in the port sector.

#### 4.2.2. PRSA COMPLIANCE:

The compliance with all applicable legislation, regulations, standards and codes is imperative to the Regulator, and as a result thereof the organisation has managed to strengthen its compliance structures with the aim of fully complying with the Acts, policies, standards, rules, procedures and regulations applicable to its operation. This process of strengthening compliance has further led to the development and approval of a legislative framework, a compliance scorecard, and several policies and procedures that will govern the operating activities of the organisation to achieve its output in line with its Strategic and Annual Performance Plan, and which are reviewed annually.



### 4.2.3. THE PORTS REGULATOR TRIBUNAL

The Regulator's tribunal function was effectively and efficiently run in the year under review. No new matters proceeded to hearing stage, however review litigation was a focus area.

Whilst previous years had focused on eliminating a backlog in dealing with existing matters, the finalisation of numerous matters now meant that the Parties thereto were faced with decisions which were either favourable to them, or not so favourable. In light of this, and also considering that the extent of the issues raised in these matters and the Regulator's decisions thereon, some of the matters were taken to court on review. As at the end of the financial year, litigation was still pending and the outcomes thereof were still uncertain. These challenges, whilst costly to the Regulator, have forced the organisation to assess its processes and powers in terms of the Act.

### 4.2.4. AMENDMENTS TO THE NATIONAL PORTS ACT, 12 OF 2005

Both the tribunal and compliance monitoring processes of the Regulator have been very instrumental in assisting with the identification of necessary legislative gaps, which has in turn enabled progress with the suggested amendments to the Act by the Regulator. The Secretariat has engaged extensively with the DoT regarding the rationale for the amendments proposed, which process is in parallel to the consultation regarding the Maritime Transport Policy. The Department, as the custodian of the Act, will be incorporating agreed to amendments into a Draft Amendment Bill for further consultation. It can therefore be said that significant progress was made in this regard during the year under review.

## 4.3. ECONOMIC REGULATION

The Economic Regulation Programme had numerous achievements to highlight in the year under review and continued to expand the level of sophistication with which economic regulation is implemented in the South African ports system.

The Regulator published the second multi-year Tariff Methodology following the prior interim methodology published in 2014 and the previous three year multi-year Tariff Methodology. The three year Methodology, applicable to the 2018/19-2020/21 tariff years, again, clearly sets out the method and approach that the NPA must use in submitting their annual tariff application to the Regulator. Whilst the Methodology does not constrain the NPA in its mandate of managing and expanding the port system, it does provide a set of guidelines within which the NPA as well as industry is able to plan and in addition, begins to incorporate an efficiency variable (the Weighted Efficiency Gain from Operations (WEGO)) into the calculation that will provide the appropriate incentives for the NPA to achieve higher levels of efficiency in the port system.

The continued implementation of the previous Tariff Methodology resulted in an application by the NPA and the subsequent determination by the Regulator with a Record of Decision (RoD) published on 01 December 2016, contained a below inflation, average fixed tariff increase of 5.97% for 2017/18 and indicative tariffs for the two subsequent years. It resulted in tariff increases for Containers (4.9%) and a significantly below inflation increase of 3.9% for vehicles. Shipping lines received a 7.9% tariff increase aligned with the tariff trajectory as set out in the Tariff Strategy published in 2015 that aims to correct the inherent cross subsidies in the tariff book.

In order to provide a continuous update of the implementation of the Tariff Strategy and the changes to base tariffs due to changes in port structure, volume forecasts etc., the Regulator published updated base rates for the coming financial year in the ROD. These tariffs provide an indication of the tariff trajectory during the estimated ten year implementation period in current terms. This was published

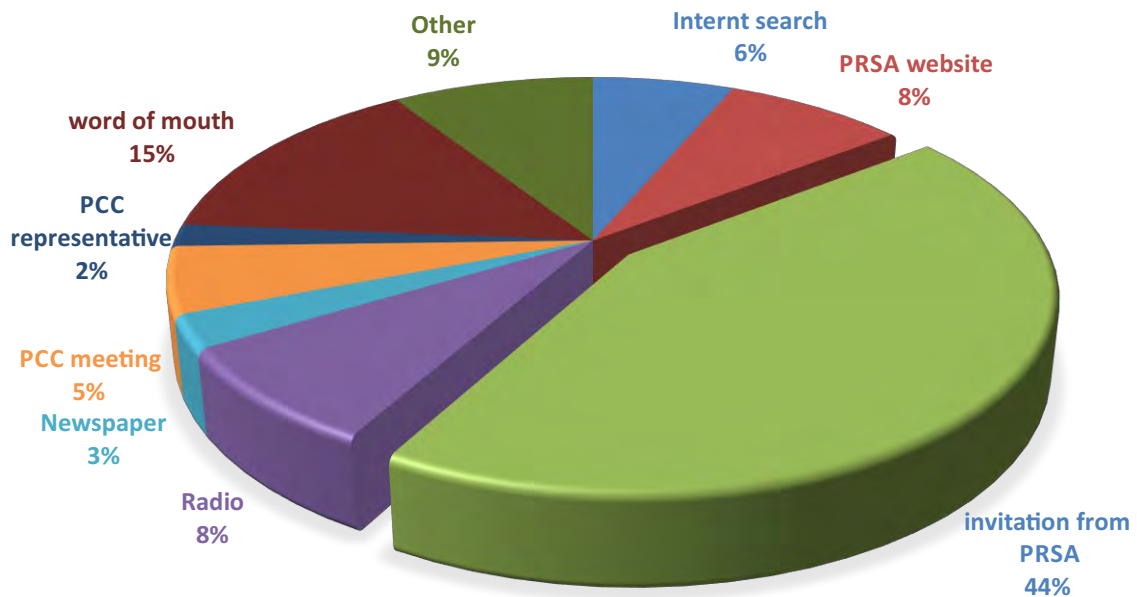
in the ROD on the 27 February 2016 and again in the latest decision published on 01 december 2016 and takes the levels of transparency and methodological tariff development to new heights.

Other research for the year included the valuation of a sample of assets and the continuing development of an appropriate methodology for the valuation of regulated port assets. In addition, the fifth edition of the Regulators’ Global Price Benchmarking Comparator Study, as well as a request for comment on a proposal on the use of port tariff to incentivise economic activity, the Port Tariff Incentive program (PTIP) was published.

#### 4.4. INDUSTRY DEVELOPMENT

The Industry Development section has continued to facilitate the Regulator’s consultation process through a stakeholder engagement programme that focussed on our key economic regulation program i.e. the NPA’s tariff application 2017/18 - 2019/20, the Port Tariff Incentive Programme (PTIP) and the review of the Tariff Methodology for the period 2018/19 and beyond.

Stakeholder feedback forms administered at the tariff application road shows were analysed and trends in port users’ perceptions of the Regulator were identified. The feedback obtained from the four centers was useful in highlighting the most effect method for the Regulator in reaching port users as captured below.



Out of 79 respondents, a majority heard about the tariff application road shows through direct invitations from the Regulator (email data base) and word of mouth. In contrast only 3% reported having heard through newspapers, which is a administrative requirement. Wider reach will be achieved through a combination of these methods.

The road show attendants were asked to rate the Regulator to obtain their overall perceptions regarding the Regulator’s work by assigning scores on a scale of 1 (bad) to 5 (excellent) on a number

of questions that have been administered since September 2014 allowing for comparisons for the two years.

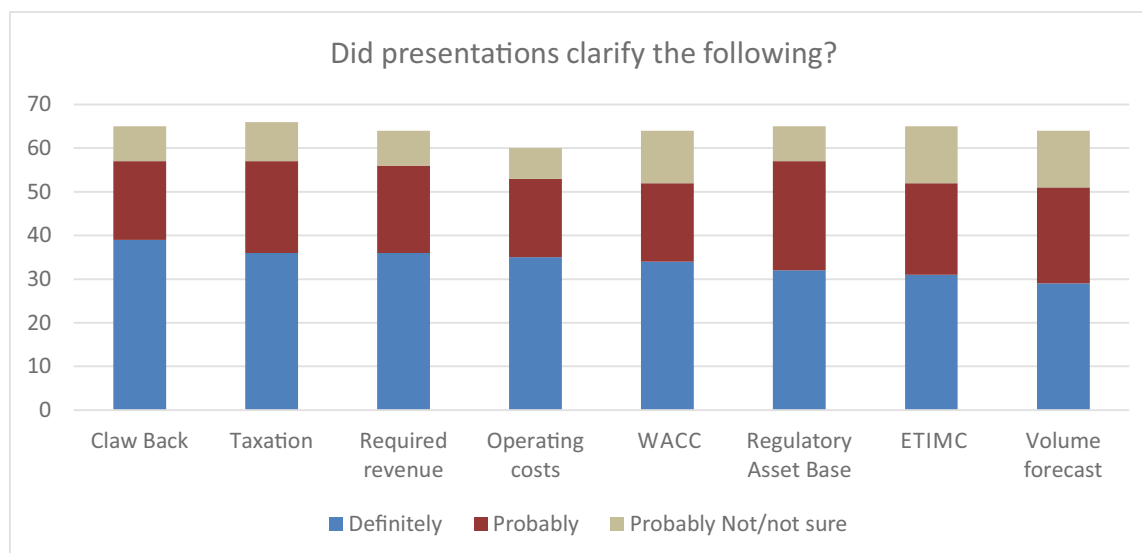
Table 9: Roadshow scores (1 bad - 5 excellent)

Questions	Durban		Johannesburg		Port Elizabeth		Cape Town		Total	
	Sept 2014	Sept 2016	Sept 2014	Sept 2016	Sept 2014	Sept 2016	Sept 2014	Sept 2016	Sept 2014	Sept 2016
Rate the NPA Presentation	3.9	4.09	4.2	4.28	4.1	4.0	4.0	4.10	4.08	4.09
Rate the PRSA presentation	4.1	4.06	4.2	4.03	4.1	3.9	4.13	4.15	4.14	4.03
Does the amount of information provided allow you to effectively comment on the application?	3.80	3.84	3.9	4.20	3.9	4.1	3.57	3.89	3.80	3.93
Does the kind & quality of information provided allow you to effectively comment on the application?	3.5	3.84	4.0	4.14	4.0	3.9	3.86	3.95	3.86	3.94
Rate the overall usefulness of the Tariff Application Roadshows	4.1	4.43	4.2	4.42	4.1	4.3	4.50	4.30	4.18	4.41
Rate the efficiency of the PRSA	3.7	3.94	4.3	4.06	4.3	3.9	3.94	4.06	4.09	3.96
Rate the effectiveness of the PRSA	4.0	3.74	4.2	4.0	4.0	4.0	3.94	3.88	4.02	3.92
Rate the responsiveness of the PRSA	3.6	3.56	4.0	4.18	4.1	3.9	3.81	3.64	3.84	3.86
Rate the neutrality of the PRSA	3.9	3.63	4.2	4.22	4.4	4.3	3.93	3.80	4.08	4.02
Rate the independence of the PRSA	3.9	3.76	4.1	4.11	4.3	4.2	4.25	3.80	4.03	4.08
Rate the decision issued by the PRSA	3.8	3.78	4.1	4.28	4.0	3.8	3.86	3.79	3.92	3.93

The Regulator has noted that participant’s ratings are largely positive with averages at 3.5 and above in all four regions with very marginal (no full point) changes. Users felt that the tariff application road shows are useful in providing information that would allow them to effectively comment on the Tariff Application.

As reflected in Figure 2, most respondents felt that the presentations afforded them clarification on the various elements of the tariff application in particular claw-back, taxation, required revenue, operating costs, and the Authority’s return. The Regulatory Asset Base, ETIMC and volume forecast were highlighted as areas where more clarity is required which is a reflection of the continued concerns that users have on either the use (ETIMC) or accuracy (Regulatory Asset Base and volume forecast) and the impact these have on the overall revenue allowed.

Figure 2: Quality of Presentation



The section participated in the port level structures of the Port Consultative Committees ('PCCs') as an observer, submitting observation reports to the Department of Transport; monitoring reported port performance in relation to set standards for terminal operators, marine services, rail and road hauliers.

Research conducted during the year introduces the Data Envelopment Analysis (DEA) methodology in determining performance frontiers and targets for South African container terminals, which will be consulted on with Academia, the NPA and port users for possible publication during 2017/18.

## 5. GOVERNANCE STRUCTURES:

### 5.1. THE HUMAN RESOURCES COMMITTEE

*The Members of this Committee included: Ms. Patricia Mazibuko (Chairperson) (resigned effective January 2017). Ms Anjue Hirachund was appointed to succeed Ms Mazibuko effective 01 February 2017 as Chairperson of the Committee. Mr. Lindelwe Mabandla, and Advocate Gugulethu Thimane are the two remaining Members of the Committee.*

The function of the Human Resource and Remuneration Committee is to ensure control and governance of all human resource and remuneration strategies, procedures, processes and HR activities inside of the organisation. The Committee's key role is to ensure that the Regulator has in place fair and transparent conditions of service, benefits for employees, as well as policies and procedures so that the human resource related matters of the organisation are effectively governed and executed.

The Committee further oversees the execution of the Human Resource Strategy that supports the achievement of the organisation's overall strategy and APP. An annual review of all policies, procedures, and remuneration structures is conducted by the Committee to ensure that they are both relevant and up-to-date in terms of amendments to labour and employment equity legislation. Final policies, procedures and structures were then recommended to the Regulator for approval.

The 2016/17 financial year has seen growth in the execution of the Regulator’s mandate, together with commensurate policies being passed, such as the Employee Wellness, Sexual Harassment, and Intellectual Property policies being approved with various other policies being amended. The strategy adopted by the Committee is risk based, thereby overseeing and managing the identified human resource risks effectively within the stated risk appetite of the organisation ; in so doing, assisting the Regulator to execute on its overall responsibility for risk management within the Regulator.

A further milestone achievement for this Committee was the recommendation and consequent implementation of an employee wellness service provider, as well as monitoring the effective implementation of the employee performance management system with an integrated incentive scheme.

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 evidenced by the number of staff trained and developed, all of whom are contributing to the work of the Regulator.

The HR Committee has laid a solid foundation with the full support of Members of the Secretariat working in conjunction with the various other sub-committees of the Regulator to ensure the overall mandate is achieved. This foundation will be improved on; therefore, we remain confident in our ability to respond to any new developments and provide any necessary guidance to the Regulator.

Ms. Patricia Mazibuko  
Outgoing Chairperson  
**Human Resources Committee**



Ms Anjue Hirachund  
New Chairperson  
**Human Resources Committee**



Table 10: HR Committee Attendance

Human Resource Committee						
	Members	22 July 2016	16 May 2016	14 October 2016	10 February 2017	TOTAL
1.	Ms. Patricia Mazibuko (Chairperson)	✓	✓	✓	R	3
2.	Mr. Lindelwe Mabandla	✓	✓	✓	X	3
3.	Adv. Gugu Thimane	✓	✓	✓	✓	4
4.	Ms. Anjue Hirachund	Not a Member	Not a Member	Not a Member	✓	1

✓	Present
×	Apology
R	Resigned

## 5.2. THE REGULATORY COMMITTEE

*The Members of this committee are : Ms. Thato Tsautse (Chairperson as of 01 October 2014), Professor Didibhuku Thwala (effective May 2014), Ms. Gerdileen Taylor (effective September 2015), and Mr Riad Khan (effective September 2015). Ms. Taylor has since joined the Audit Committee where her expertise as a Chartered Accountant strengthens the oversight role that committee plays.*

This Committee is responsible for the oversight of delivery of the Regulator's obligations arising from both the Act and its Regulations. Its key activities were in the areas of economic regulation, economic research, as well as the hearing of complaints and appeals. Furthermore, this committee is required to perform both an oversight function as well as a quality control function with respect to economic regulation, its regulatory elements, and the tribunal function.

A significant output for the year was the publication of the Regulator's latest Multi-year Tariff Methodology and a tariff decision that was announced on 01 December 2016. Whilst the published Tariff Strategy sets out a methodological approach for the tariff structure and its tariff trajectory on a cargo type and user specific level and is effective for a ten year period, the Tariff Methodology, applicable up to the 2020/21 tariff year, sets out the calculations and makeup of the annual revenue allowance, in effect the average tariff change allowed on an annual basis. This, the third Tariff Methodology and the second multi-year tariff methodology following the prior interim methodology published in 2014 and the previous three year multi-year Tariff Methodology clearly sets out the method and approach that the NPA must use in submitting their annual tariff application to the Regulator. Whilst the methodology does not constrain the NPA in its mandate of managing and expanding the port system, it does provide a set of guidelines within which the NPA as well as industry is able to plan and in addition, starts to incorporate an efficiency variable (the Weighted Efficiency Gain from Operations (WEGO)) into the calculation that will provide the appropriate incentives for the NPA to achieve higher levels of efficiency in the port system.

Other areas of output from the Regulatory Committee included an analysis of the impact and implementation of the Tariff Strategy, input into the various tribunal processes, as well as other research conducted by the Secretariat (for both internal as well as external use). These included the publication of the fifth edition of the Ports Regulators' Global Price Benchmarking Comparator Study, as well as a request for comment on a proposal on the use of port tariff to incentivise economic activity, the Port Tariff Incentive program (PTIP) and in addition, a valuation of a sample of assets and the continuing development of an appropriate methodology for the valuation of regulated port assets continues.

The oversight of the Tariff Methodology development, the performance and efficiency benchmarking and monitoring process, the NPA's compliance with the Act in terms of concessions, licences and leases etc., and tribunal processes are ongoing activities for the Regulatory Committee. The Committee's quality control function extends to include the review of the Industry Development's projects, which include the capacity utilisation research as well as port performance statistics within the eight commercial ports. The outputs from these projects will subsequently be used to monitor the efficiency levels of the NPA and the terminal operators, resulting in a larger efficiency component in future tariff settings as is evident in the inclusion of the WEGO variable in the tariff setting methodology for the next tariff cycle.

Finally, the Regulatory Committee works closely with the Legal Department of the Regulator and has played a major role in suggesting much needed amendments to the Act aimed at improving regulation.

Ms. Thato Tsautse  
 Chairperson  
 Regulatory Committee



Table 11: Regulatory Committee Attendance

Regulatory Committee								
	Members	17 May 2016	25 May 2016	19 July 2016	01 Nov 2016	14 Nov 2016	16 Feb 2017	TOTAL
1.	Ms. Thato Tsautse (Chairperson)	✓	✓	✓	✓	✓	✓	6
2.	Prof. Didibhuku Thwala	X	✓	✓	✓	✓	✓	5
3.	Mr. Riad Khan	✓	✓	✓	✓	✓	✓	6
4.	Ms. Gerdileen Taylor	✓	✓	✓	✓	✓	✓	6

✓	Present
x	Apology
R	Resigned



Ports Regulator and National Ports Authority at the Durban Port Control on oversight visit

### 5.3. THE AUDIT COMMITTEE

We are pleased to present the Audit Committee report for the financial year ended 31 March 2017

#### MEMBERS OF THE AUDIT COMMITTEE

The Members of this committee included: Mr. Trevor Boltman (Independent Non-Executive Chairperson), Mr Aubrey Ngcobo, Mr Andile Mahlalutye, Ms. Gerdileen Taylo (appointed effective 01 February 2017 due to the appointment of Mrs Hirachund to the HR Committee), Mrs Anjue Hirachund (appointed 01 September 2015 to 31 January 2017).

#### AUDIT COMMITTEE RESPONSIBILITY

The Audit Committee has complied with its responsibilities as stipulated in Section 77 of the PFMA and Treasury Regulation 3.1.

The Audit Committee has adopted, with approval from the Regulator, appropriate, formal, Terms of Reference as its Audit Committee Charter.

This Committee Charter is 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.

Furthermore, 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 of South Africa ('AGSA'), Internal Audit and Management separately; all of whom are present at the Committee meetings, with AGSA being present at least twice each year.

#### AUDIT COMMITTEE MEMBERS AND ATTENDANCE:

The Table below reflects the relevant information on the Audit Committee Members attendance for the 2016/17 year.

Table 12: Audit Committee Attendance

Audit Committee							
Members		04 May 2016	13 May 2016 (Special Audit Meeting)	20 July 2016	11 October 2016	10 February 2017	TOTAL
1.	Trevor Boltman (Independent Chairperson)	✓	✓	✓	✓	✓	5
2.	Aubrey Ngcobo	✓	✓	✓	✓	✓	5
3.	Andile Mahlalutye	✓	X	✓	✓	✓	4
4.	Anjue Hirachund	✓	✓	✓	✓	✓	5
5.	Gerdileen Taylor (appointed effective 01 February 2017)	Not a Member	Not a Member	Not a Member	Not a Member	X	0

✓	Present
×	Apology
R	Resigned



## 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 AGSA on the results of its audits, the internal accounting controls are operating effectively. Thus, ensuring that the financial records may be relied upon for preparing the AFS, and that accountability for assets and liabilities is maintained.

The Internal Auditors have conducted audits on certain key operations and processes of the Regulator as per the approved Internal Audit Plan during the year ended 31 March 2017. Based on the scope and results of their work, and subject to the limitations of sampling, and their evaluation of the key controls implemented by management to address the associated risks, it appears that the system of internal control was effective.

## IN-YEAR MANAGEMENT AND MONTHLY/QUARTERLY REPORTS

The Secretariat 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 the AGSA and the Regulator.
- The AGSA's management letter and audit report, 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 and annual performance report be accepted and read together with the report of the Auditor General.

## CONCLUSION

In our opinion, based on feedback at the Audit Committee meetings, the Regulator's key performance indicators are being monitored within the environmental and cash flow constraints the Regulator faces. The Regulator is achieving its key performance areas.



Mr. Trevor Boltman  
Independent Chairperson  
**Audit Committee**



Minister of Transport, Deputy Minister with Ports Regulator members at the launch of the comprehensive Maritime policy held in Durban



Ports Regulator consultations with Industry Stakeholders at the Port Tariff Roadshows

## 5.4. COMPANY SECRETARY

The Company Secretary is the key support of the Regulator and is responsible for compliance and governance in all Regulator meetings. Furthermore, the Secretary is the contact person for the Regulator with respect to such functions.

The main role of a Company Secretary is that of gatekeeper of corporate governance for an organisation. The Regulator is governed by a Charter and Code of Conduct which provides the Members with guidance as to 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 Company Secretary to provide comprehensive and practical support to the Members, the Chairperson of the Regulator, and the Chairs of its sub-committees in terms of providing guidance to Members with regard to fully observing their duties, responsibilities and powers, as well as sourcing and/or providing training to new and existing Members on new laws, processes and regulations relevant to the business of the organisation.

In terms of performance, the Regulator and its Sub-Committees have 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. The ongoing development of Members was a specific focus area in order to ensure that Members were kept abreast of local developments in terms of their duties, risk management and corporate governance best practice in terms of the new King IV Code becoming effective. The performance of the Regulator and the Audit Committee is evaluated annually, and has been facilitated by the Company Secretary; the process took the form of questionnaires which were completed by the Members. The evaluation covered areas such as the the Regulator / committee composition, dynamics, effectiveness, experience and knowledge of the Members and their relationship to Management. Recommendations to improve will be implemented in the ensuing year. Evaluation of the other committees will be phased in.

**Company Secretary**  
**Ms. Marissa Damons**



Table 13: Regulator Meeting attendance

REGULATOR MEETINGS						
	Members	26 MAY 2016	17 AUGUST 2016	23 NOV. 2016	02 MARCH 2017	TOTAL
1.	Mr. Thaba Mufamadi	✓	✓	✓	✓	4
2.	Mr. Andile Mahlalutye	✓	✓	x	x	2
3.	Ms. Anjue Hirachund	✓	✓	✓	✓	4
4.	Mr. Aubrey Ngcobo	✓	✓	✓	✓	4
5.	Ms. Gerdileen Taylor	✓	✓	✓	✓	4
6.	Adv. Gugulethu Thimane	✓	✓	✓	✓	4
7.	Mr. Lindelwe Mabandla	✓	✓	✓	✓	4
8.	Ms. Patricia Mazibuko	✓	✓	✓	x	3
9.	Mr. Riad Khan	✓	✓	✓	✓	4
10.	Prof. Didibhuku Thwala	✓	✓	✓	✓	4
11.	Ms. Thato Tsautse	✓	✓	✓	✓	4

Table 14: Annual General Meeting attendance

Annual General Meeting (AGM)		
		29 September 2016
1.	Mr. T. Mufamadi	✓
2.	Mr. A. Ngcobo	✓
3.	Mr. A. Mahlalutye	x
4.	Ms. A. Hirachund	✓
5.	Prof. D. Thwala	✓
6.	Ms. G. Taylor	✓
7.	Adv. G. Thimane	✓
8.	Mr. L. Mabandla	✓
9.	Ms. P. Mazibuko	x
10.	Mr. R. Khan	x
11.	Ms. T. Tsautse	✓
12.	Mr. T. Boltman	✓

Table 15: Regulator Member fees for period 01 April 2016 to 31 March 2017

Name	Member Fees (R'000) (2016/17)	Performance Bonus	Leave Pay	Total (R'000)
Mr. T. Mufamadi	209	-	-	209
Ms. P. Mazibuko	66	-	-	66
Ms. T. Tsautse	232	-	-	232
Mr. A. Ngcobo	170	-	-	170
Mr. A. Mahlalutye	118	-	-	118
Mr. L. Mabandla	157	-	-	157
Mr. R. Khan	179	-	-	179
Prof. D. Thwala	182	-	-	182
Adv. G. Thimane	168	-	-	168
Ms. G. Taylor	173	-	-	173
Mrs. A. Hirachund	204	-	-	204



CEO of Ports Regulator hands over the Tariff Record of Decision to the CFO of National Ports Authority on 01 December 2016

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target 2016/2017	Actual Performance	Challenges	Action to be taken	Evidence
1. The running of an efficient and effective administration system	All Corporate Services Policies reviewed on an annual basis.	IT, HR, and Finance policies reviewed by the Accounting Officer and approved by the Regulator.	Annual review of organisational policies, and submit a report on these to the Regulator for approval.	Achieved Policies reviewed and Policy Gap Analysis report submitted to the Regulator in Q4 of 2016/17.	None.	None.	Minutes of committee meetings for approval of policies.
	Capacitate the Ports Regulator.	Filling of two or more vacant funded posts.	Fill two funded vacant posts and at least two internship posts on a one year contract.	Achieved Processor and Specialist post filled, two interns appointed.	None.	None.	Appointment letters.
	Organisational and Employee performance improved.	Organisational Performance monitored and reported on to the Regulator quarterly.	Achievement of all targets set in the Annual Performance Plan.	Achieved Quarterly reports against planned performance were submitted to DoT and the Regulator within thirty days of the end of the quarter.	None.	None.	Quarterly reports and acknowledgement of receipt emails.
		Employee PMS monitored and enhanced by conducting half year and final employee performance reviews to be provided to the Accounting Officer.	Assessment of employee performance to improve organisational efficiency and performance.	Achieved Half yearly and final employee's performance review conducted.	None.	None.	Half year and final reviewed performance contracts and performance review report as submitted to the Regulator.
	Implementation of a sustainable funding model for the organization once enabling legislation approved.	Quarterly Reports to the Regulator and/or the Executive Authority on implementation of the funding model once approved.	New funding model implemented to ensure organisational sustainability.	Achieved Funding model submitted to Executive Authority as part of proposed new amendments to National Ports Act and workshopped with DOT.	New funding model first requires Parliament to pass an amendment	None.	Management report for quarterly meetings, Presentations to Parliament on new funding model.

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target 2016/2017	Actual Performance	Challenges	Action to be taken	Evidence
				Progress reported on at quarterly Regulator meetings.	to the National Ports Act.		
<b>2.Ongoing Improvement of Economic regulation of ports (Price, access, institutional structure)</b>	Implement the Multi-year Tariff Methodology.	Perform port tariff assessment in accordance with the Multi-year methodology and issue a record of decision.	Tariff decision and ROD publication.	Achieved Tariff decision and ROD published 1 December 2016.	None.	None.	Published on Website and tariff book approved.
	Review Tariff Methodology.	Review Tariff Methodology as part of the regulatory review of the Tariff Strategy.	Publish Tariff Methodology for implementation in 2018/19.	Achieved Tariff Methodology for implementation in 2018/19 approved and Published	None.	None.	Published on Website.
	Approved Tariff Strategy implemented.	Tariff Strategy approved, published, implemented and monitored.	Medium to long term Tariff Strategy implemented according to implementation plan.	Achieved All 2016/17 elements of the Tariff Strategy implemented: revised beneficiation program published as PTIP; initial phase of Valuation completed; and regulatory re-design undertaken and published as new Tariff Methodology.	None.	None.	Published on Website.
<b>2.1. Enhance SA port system through the performance of research and policy development</b>	Research Projects Performed.	Research Reports published annually.	Publish Research Reports to inform industry and policy development.	Achieved as per two items listed below	None.	None.	As per two items below

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target 2016/2017	Actual Performance	Challenges	Action to be taken	Evidence
	Annual Global Tariff Comparator Study.	Global Port Pricing Comparator study.	Compare SA Port Prices with global ports and produce Comparator study	Achieved Report Approved and published on website.	None.	None.	Published on website.
	Conduct valuation of the Regulatory Asset Base of the National Ports Authority.	Undertake a valuation of a sample of the NPA's Asset Base.	To evaluate a sample of port assets to start assessing the accuracy of the Regulatory Asset Base.	Achieved Report submitted to Regulator with recommendations.	None.	Expand project as results were based on small sample.	Report available.
<b>3. Engage stakeholders and monitor provision of infrastructure and facilities; and promotion of efficiencies in the port system</b>	Enhance the Regulator's relations with the industry through information sharing and stakeholder engagements.	Report on public consultation engagements and involvement at PCC/NPCC	Two or more public consultation engagements.  Attend and report on quarterly PCC & NPCC meetings.	Achieved	None.	None.	2016/17 Stakeholder feedback report and report on PTIP consultations.  Quarterly observation reports submitted to the DOT.
	Monitor the activities of the NPA to ensure that it performs its functions in accordance with the Act in relation to provision of infrastructure and facilities, and promotion of efficient port operations.	Research and report on provision of infrastructure and facilities, and promotion of efficiencies.	Produce at least one research report.	Achieved Research report on application of Data Envelopment Analysis (DEA) methodology on SA container terminals completed.	Publication deferred to 2017/18.	Further consultations on findings.	Research report on application of Data Envelopment Analysis (DEA) methodology on SA container terminals.



Strategic Objective	Outcomes	Key Performance Indicator	Annual Target 2016/2017	Actual Performance	Challenges	Action to be taken	Evidence
<b>4. Monitoring the port industry and its compliance with the National Ports Act and other Regulatory Instruments to ensure access to and competition within the port system</b>	Monitor amendments to the National Ports Act through the Executive Authority process with ongoing correspondence with the Executive Authority regarding the amendments required.	Monitoring reports to the Regulator regarding progress of the legislative process effecting amendments to the Act proposed by the Regulator.	Engagement with the DoT to track the progress of the passing of proposed legislative amendments by the Regulator.	Achieved Four quarterly reports submitted to Regulator and engagements held with the Department of Transport.	None.	Continue monitoring progress.	Presentation to DoT – 15/03/2017.  Quarterly progress reports to the Regulator.
	Ongoing monitoring of compliance of the NPA with the National Ports Act and other Regulatory aspects.	Consultation and validation of compliance monitoring findings.	Compile compliance findings, if any, and report to the Regulator, the National Ports Authority (NPA) and the Executive Authority.	Achieved Received and reviewed reports of the NPA on Findings made, report quarterly thereon to the Regulator.	NPA failure to submit their reports by end of each quarter.	None.	Quarterly reports to Regulator.
	B-BBEE status review of all S56 and S57 port facilities and service providers for all the ports.	B-BBEE status review of ports to be completed in accordance with the Regulations to the Act and submit report to the Regulator.	Assess NPA's compliance with B-BBEE Codes and report thereon to the Regulator and the NPA.	Achieved Developed reporting template, engaged NPA, received annual report of the NPA on B-BBEE and assessed same.	None.	None.	Annual report of the NPA and review thereof by the Regulator.
<b>5. Operating an effective and efficient tribunal to hear complaints and appeals under the National Ports Act</b>	Tribunal to be effectively and efficiently operated to deal with complaints and/or appeals.	Report quarterly on progress with regards to new and existing tribunal complaints and/or appeals to the Regulator, and issue Records of Decision where appropriate.	Tribunal to be effectively run, decisions published and quarterly reports to be provided to the Regulator.	Achieved Four quarterly reports to the Regulator.	None.	None.	Four quarterly Tribunal Reports.

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target 2016/2017	Actual Performance	Challenges	Action to be taken	Evidence
<b>6. Ensuring good governance and sustainability of the organisation</b>	i) Governance and compliance framework in place for the organisation.	Governance and compliance checklist reported on quarterly to the Regulator.	Ensuring good governance and compliance of the organisation.	Achieved Developed Governance checklist and then monitored organisational culture of compliance therewith and reported quarterly to the Regulator.	None.	None.	Four quarterly reports.

PRSA Summary of 2016/17 Performance on Annual Performance Plan

PERFORMANCE CATEGORY	COLOUR KEY	NUMBER OF ITEMS	PERCENTAGE
Not Achieved		0	0%
Partially Achieved		0	0%
Achieved		18	100%
<b>Totals</b>		<b>18</b>	<b>100%</b>

## 7. STATEMENT OF ESTIMATED INCOME AND EXPENDITURE

Statement of Estimated Income and Expenditure		2017/18
<b>Revenue</b>		
<b>Tax revenue</b>		–
<b>Non-tax revenue</b>		–
Sale of goods and services other than capital assets		–
<i>of which:</i>		
<i>Admin fees</i>		–
<i>Sales by market establishments</i>		–
<i>Other sales</i>		–
<i>Other non-tax revenue</i>		320
<b>Transfers received</b>		<b>22,489</b>
<b>Total revenue</b>		<b>22,809</b>
<b>Expenses</b>		
<b>Current expense</b>		<b>22,809</b>
Compensation of employees		14,764
Goods and services		7,826
Depreciation		219
Interest, dividends and rent on land		–
Interest		–
Dividends		–
Rent on land		–
<b>Transfers and subsidies</b>		–
<b>Total expenses</b>		<b>22,80</b>
<b>Surplus / (Deficit)</b>		–

## 8. Programme for 2017/2018

### Annexure to Ports Regulator of South Africa's Annual Performance Plan 2017/2018

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target	2017/2018 Quarterly Targets			
				Q1	Q2	Q3	Q4
1. The running of an efficient and effective administration system.	All Corporate Services Policies reviewed on an annual basis.	IT, HR and Finance policies reviewed by the Accounting Officer and approved by the Regulator.	Annual review of organisational policies, and submit a report on these to the Regulator for approval.	Review IT systems and processes and update relevant policies. A report to be submitted to the Regulator in this regard.	Financial policies to be reviewed in line with relevant legislative amendments (if any) and policies to be amended accordingly. Amended policies to be reported on to the AC and the Regulator.	HR policies to be reviewed in line with relevant legislative amendments (if any) and policies to be amended accordingly. Amended policies to be reported on to the HR Comm. and the Regulator.	Policy gap analysis to be performed and dashboard report to be submitted to the Regulator for next FY.
	Organisational and Employee performance improved.	Organisational Performance monitored and reported on to the Regulator quarterly.  Employee PMS monitored and enhanced by conducting half year and final employee performance reviews	Achievement of all targets set in the Annual Performance Plan.	Report on Q4 performance to the Regulator and DoT and the Regulator by 30 May 2017.	Report on Q1 performance to the Regulator and the DoT by 30 July 2017.	Report on Q2 performance to the Regulator and the DoT by 30 October 2017.	Report on Q3 performance to the Regulator and the DoT by 30 January 2018.
			Assessment of employee performance to improve organisational	KPI's for staff to be aligned to the APP targets. Employee performance contracts to be	Half yearly performance review to be undertaken in accordance with the policy and	Management to review organizational performance in relation to individual performance to	Final employee performance reviews to be undertaken and scoring forwarded to and assessed by HR. Report to HR

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target	2017/2018 Quarterly Targets			
				Q1	Q2	Q3	Q4
		to be provided to the Accounting Officer.	efficiency and performance.	signed off by 30 April and report to the HR Committee.	reported on the HR Committee.	determine progress on targets and incentives.	Committee and the Regulator
	Align Organizational and Employee Performance Management system with Strategy and APP.	Organizational performance monitored and reported on to the Regulator quarterly.	Monitoring employee performance in order to achieve alignment with strategic objectives.	Provide quarterly reports to the Regulator regarding organisational performance.	Provide quarterly reports to the Regulator regarding organisational performance.	Provide quarterly reports to the Regulator regarding organisational performance.	Provide quarterly reports to the Regulator regarding organisational performance.
	HR Management and ongoing skills development of Members and staff to enhance the effectiveness and efficiency of the organisation.	Regulator Members and staff matters dealt with and training attendance on Regulatory matters reported annually.	Full implementation of the PRSA HR and training plan for Members and staff. Appropriate training sourced (internal/ external) for members and staff to attend and annually report to the Regulator on all regulatory training that has taken place in line with the organisational HR plan.	Review the HR Plan and Develop a training plan for Members and staff that is aligned to the Strategic Plan.	Implementation of the HR plan and the training plan with a quarterly progress report to the Regulator.	Implementation of the HR plan and the training plan with a quarterly progress report to the Regulator.	Implementation of the HR plan and the training plan with a quarterly progress report to the Regulator.

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target	2017/2018 Quarterly Targets			
				Q1	Q2	Q3	Q4
		to be provided to the Accounting Officer.	efficiency and performance.	signed off by 30 April and report to the HR Committee.	reported on the HR Committee.	determine progress on targets and incentives.	Committee and the Regulator
	Align Organizational and Employee Performance Management system with Strategy and APP.	Organizational performance monitored and reported on to the Regulator quarterly.	Monitoring employee performance in order to achieve alignment with strategic objectives.	Provide quarterly reports to the Regulator regarding organisational performance.	Provide quarterly reports to the Regulator regarding organisational performance.	Provide quarterly reports to the Regulator regarding organisational performance.	Provide quarterly reports to the Regulator regarding organisational performance.
	HR Management and ongoing skills development of Members and staff to enhance the effectiveness and efficiency of the organisation.	Regulator Members and staff matters dealt with and training attendance on Regulatory matters reported annually.	Full implementation of the PRSA HR and training plan for Members and staff. Appropriate training sourced (internal/ external) for members and staff to attend and annually report to the Regulator on all regulatory training that has taken place in line with the organisational HR plan.	Review the HR Plan and Develop a training plan for Members and staff that is aligned to the Strategic Plan.	Implementation of the HR plan and the training plan with a quarterly progress report to the Regulator.	Implementation of the HR plan and the training plan with a quarterly progress report to the Regulator.	Implementation of the HR plan and the training plan with a quarterly progress report to the Regulator.

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target	2017/2018 Quarterly Targets			
				Q1	Q2	Q3	Q4
	for achieving the regulatory outcomes.						
	Extract key issues from the compliance processes that identify key opportunities for development and intervention across the PRSA that would enhance efficiency, effectiveness and the development of ports.	Key opportunities identified and implemented. Impact of intervention monitored.	Identify issues from prior year compliance report and identify opportunities for intervention. Put strategy in place for extracting opportunity and implement strategy.	Development of interventions on key issues identified and draft report.	Economic regulatory interventions finalised and approved on key identified issues from compliance processes	Implement approved economic regulatory interventions on key identified issues from compliance processes.	Implement approved economic regulatory interventions on key identified issues from compliance processes and report thereon.
	Model port demand over the medium term.	Port demand report.	Preliminary trend analysis model on port demand.	Literature study and data collection on development of port demand model and trend analysis models.	Draft report and consult with Regulatory Committee.	Finalise report and obtain approval.	
	Perform capital prudence assessment from demand modelling, capital programme and 'gap' analysis.	Phase 1 capital prudence model developed for CAPEX forecast assessment for 2018/19 to 2023/24.	Develop capital prudence assessment criteria.	Define capital prudence assessment development framework.	Conduct literature study and draft report on Capital Prudence Model.	Implement Capital Prudence Model as part of the tariff determination process.	

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target	2017/2018 Quarterly Targets			
				Q1	Q2	Q3	Q4
	Annual Global Tariff Comparator Study.	Global Port Pricing Comparator study.	Compare SA port prices with global ports and produce Comparator study.	Complete data collection for all cargo types chosen.	Complete preliminary price compilation for all cargo types.	Complete research and write up draft report for submission.	Submit final report to the CEO for approval.
	Develop a Valuation Methodology for the valuation of the Regulatory Asset Base of the National Ports Authority.	Develop Valuation Methodology and publish.	Publish an approved and consulted Valuation Methodology.	Approved framework for Regulatory Valuation Methodology.	Draft Valuation Methodology submitted to CEO.	Draft Valuation Methodology approved for public consultation by the Regulator.	Public consultation and Regulator approved Valuation Methodology.
<b>3. Engage stakeholders and monitor provision of infrastructure and facilities; and promotion of efficiencies in the port system.</b>	Research Projects performed	Modelled capital rollout programme of infrastructure over the medium term at existing efficiency levels.	Report on capital roll-out programme at existing efficiency levels.	Consultations to confirm infrastructure roll out programme for 2018/19 – 2024/25 (medium term) and determined existing efficiency levels.	Assessment and modelling of adequacy of planned infrastructure as per roll out programme based on existing infrastructure efficiency levels.	Assessment and modelling of adequacy of planned infrastructure as per roll out programme based on existing infrastructure efficiency levels.	Draft report on planned infrastructure adequacy assessment.
	Completed report on port performance.	Report covering the ongoing monitoring of port performance.	One review report covering the ongoing monitoring of port performance.	Collect financial, project and related data on port development projects in continental / peer ports.	Collect financial, project and related data on port developments in continental / peer ports.	Draft and finalise report on CAPEX/ Port Infrastructure developments in continental / peer ports and submit to the Regulator.	Approval and publish report if required by Regulator.



Strategic Objective	Outcomes	Key Performance Indicator	Annual Target	2017/2018 Quarterly Targets			
				Q1	Q2	Q3	Q4
	Implement Stakeholder Engagement Plan.	Draft and Implement Stakeholder Engagement Framework.	Implement annual stakeholder engagement plan commission process.	Organise stakeholder engagements and attend stakeholder events as per stakeholder engagement plan.	Organise stakeholder engagements and attend stakeholder events as per stakeholder engagement plan.	Organise stakeholder engagements and attend stakeholder events as per stakeholder engagement plan.	Organise stakeholder engagements and attend stakeholder events as per stakeholder engagement plan.
	Develop baseline equity of access levels and develop strategy and implementation plan to respond to compliance findings.	Equity access baseline report Develop and implement Equity of Access Strategy.	Complete baseline study.	Collect relevant data.	Analyse and begin draft baseline report.	Consult with Regulatory Committee.	Finalise baseline study.
	Develop infrastructure efficiency targets for existing infrastructure.	Efficiency targets developed.	Develop infrastructure operations and marine, service efficiency targets.	Draft report on the Operator Performance Standards process from inception to date isolating process and outcomes issues.	Consolidate outcomes per terminal from year 0 to year 4 (Year 4 ends in July/August 2017).	Analyse and draft report.	Finalise assessment report and submit to the Regulator.
	Assessment of Authority's CAPEX programme.	CAPEX Assessment report.	CAPEX assessment report per quarter.	Report: tracking and monitoring of CAPEX programme.	Report: tracking and monitoring of CAPEX programme.	Report: tracking and monitoring of CAPEX programme.	Report: tracking and monitoring of CAPEX programme.

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target	2017/2018 Quarterly Targets			
				Q1	Q2	Q3	Q4
<b>4. Monitoring the port industry and its compliance with the National Ports Act and other Regulatory Instruments to ensure access to and competition within the port system.</b>	Ongoing monitoring of compliance of ports sector participants.	Compliance monitoring for all port participants conducted and reported.	4 Quarterly reports to the Regulator on the compliance issues and progress, if any, per quarter, and one annual compliance report to the Executive Authority.	Engage the NPA and report to the Regulator regarding the status of compliance by the NPA.	Develop compliance framework for additional port participants and report to the Regulator regarding status of compliance by the NPA.	Engage the NPA and Report to Regulator on the status of compliance by the NPA.	Report to the Regulator regarding status of compliance and annually report to the Executive Authority in terms of Section 30(5) of the National Ports Act.
	B-BBEE status review of all S56 and S57 port facilities and service providers for all the ports.	B-BBEE status review of ports in terms of transformation to be completed in accordance with the Regulations to the National Ports Act and submit report to the Regulator.	Assess NPA's compliance with B-BBEE Codes and report thereon to the Regulator and the NPA with specific regard to transformation in the port system.	Engage NPA on key findings of the 2016 Report and plan way forward.	Develop B-BBEE compliance framework for additional port participants and report to the Regulator.	Commence thorough analysis of the 2017 Report and provide draft findings regarding current status of B-BBEE and transformation across the sector to the Regulator.	Report to the Regulator on key B-BBEE findings and transformation across the sector and report annually to the Executive Authority regarding the status of transformation in the port sector.
Develop a framework of rights to equity of access to port services and facilities and instrument of enforcement for such rights.	Framework for rights to equity of access developed.	Develop a compliance assessment framework for measuring equity of access across the port system.	Identify critical issues and conduct relevant research and data collection.	Analyse and begin draft report on assessment framework and conduct stakeholder consultations.	Draft framework presented to Regulatory Committee and begin implementation of critical issues identified.	Finalise framework and report on monitoring of implementation.	

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target	2017/2018 Quarterly Targets			
				Q1	Q2	Q3	Q4
	Develop legal instruments required to enforce efficiency standards and lock standards into Tariff Methodology.	Legal framework developed.	Develop framework for legal instruments.	Identify instruments and conduct relevant research and report thereon.	Analyse and begin draft report on legal instruments.	Report and consult with Regulatory Committee.	Finalise Framework.
<b>5. Operating an effective and efficient tribunal to hear complaints and appeals under the National Ports Act.</b>	Tribunal to be effectively and efficiently operated to deal with complaints and/or appeals.	Performance assessment of case management, adjudication of matters and decision making.	Chairperson supported by the secretariat to perform quarterly performance assessment regarding case management, oversight of pending and emerging litigation, adjudication and decision making of the Tribunal.	Provide case management and litigation support and compile report on all matters dealt with in the quarter to be submitted to the Regulator, in terms of number of matters heard/RODs issued, new matters received or matters settled.	Provide case management and litigation support and compile report on all matters dealt with in the quarter to be submitted to the Regulator, in terms of number of matters heard/RODs issued, new matters received or matters settled.	Provide case management and litigation support and compile report on all matters dealt with in the quarter to be submitted to the Regulator, in terms of number of matters heard/RODs issued, new matters received or matters settled.	Provide case management and litigation support and compile report on all matters dealt with in the quarter to be submitted to the Regulator, in terms of number of matters heard/RODs issued, new matters received or matters settled. Annually report to the Executive Authority on tribunal matters in terms of section 30(5) of the National Ports Act

Strategic Objective	Outcomes	Key Performance Indicator	Annual Target	2017/2018 Quarterly Targets			
				Q1	Q2	Q3	Q4
<b>6. Ensuring good governance and sustainability of the organisation.</b>	i) Governance and compliance framework in place for the organisation.	Governance and compliance checklist reported on quarterly to the Regulator.	Ensuring good governance and compliance of the organisation.	Draft governance and compliance checklist and submit to the Regulator for approval.	Compile governance and compliance report and submit to the Regulator.	Compile governance and compliance report and submit to the Regulator.	Compile governance and compliance report and submit to the Regulator.
	MOUs to be concluded by PRSA with regulators and agencies on transversal issues.	MOUs with identified regulators and agencies in place.	Identify regulators and agencies that have overlapping jurisdiction Sign MOUs with willing agencies.	Identify regulators and agencies that have overlapping jurisdiction.	Develop appropriate MOUs.	Consult Regulator, and meet agencies and deliberate MOUs.	Sign and begin to implement MOUs.

Annual Financial Statements  
for  
The Ports Regulator of South Africa  
for the year ended 31 March 2017

## The Ports Regulator of South Africa

### ANNUAL FINANCIAL STATEMENTS for the year ended 31 March 2017

#### General Information

<b>Country of incorporation</b>	South Africa
<b>Nature of the business</b>	Economic Regulation
<b>Business address</b>	11 <sup>th</sup> Floor, The Marine Building 22 Dorothy Nyembe Street Durban 4001
<b>Postal address</b>	Private Bag X54322 Durban 4000
<b>Website</b>	<a href="http://www.portsregulator.org">www.portsregulator.org</a>
<b>Bankers</b>	Standard Bank Limited
<b>Auditors</b>	Auditor-General South Africa
<b>Controlling entity</b>	Department of Transport

## The Ports Regulator of South Africa

### ANNUAL FINANCIAL STATEMENTS for the year ended 31 March 2017

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## The Ports Regulator of South Africa

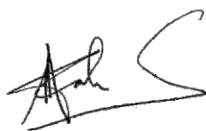
### ACCOUNTING AUTHORITY'S RESPONSIBILITIES for the year ended 31 March 2017

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 2017 set out on pages 61 to 83 were approved by the Regulator on 26 May 2017.



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Mahesh Fakir  
Chief Executive Officer



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Thaba Mufamadi  
Chairperson of the Regulator



## The Ports Regulator of South Africa

### REPORT OF THE AUDITOR-GENERAL

#### Report of the auditor-general to Parliament on the Ports Regulator of South Africa

##### OPINION

1. I have audited the financial statements of the Ports Regulator of South Africa set out on pages 61 to 83 which comprise the statement of financial position as at 31 March 2017, the statement of financial performance, statement of changes in net assets, cash flow statement and statement of comparison budget with actual information for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, the financial statements present fairly, in all material respect, the financial position of the Ports Regulator of South Africa as at 31 March 2017, their financial performance and cash flows for the year then ended in accordance with the 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).

##### BASIS FOR OPINION

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of my report.
4. I am independent of the entity in accordance with the International Ethics Standards Board for Accountants' Code of ethics for professional accountants (IESBA code) and the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

##### RESPONSIBILITIES OF THE ACCOUNTING AUTHORITY FOR THE FINANCIAL STATEMENTS

6. The accounting authority is responsible for the preparation and fair presentation of the financial statements in accordance with SA Standards of GRAP and the requirements of the 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.
7. In preparing the financial statements, the accounting authority is responsible for assessing the Ports Regulator of South Africa's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless there is an intention either to liquidate the entity or cease operations, or there is no realistic alternative but to do so.

# The Ports Regulator of South Africa

## REPORT OF THE AUDITOR-GENERAL

### AUDITOR-GENERAL'S RESPONSIBILITIES FOR THE AUDIT OF THE FINANCIAL STATEMENTS

8. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these statements.
9. A further description of my responsibilities for the audit of the financial statement is included in the annexure to the auditor's report.

### Report on the audit of the annual performance report

#### INTRODUCTION AND SCOPE

10. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report material findings on the reported performance information against predetermined objectives for selected objectives presented in the annual performance report. I performed procedures to identify findings but not to gather evidence to express assurance.
11. My procedures address the reported performance information, which must be based on the approved performance planning documents of the entity. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures also did not extend to any disclosures or assertions relating to planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my finding do not extend to these matters.
12. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected objectives presented in the annual performance report of the entity for the year ended 31 March 2017:

Objectives	Pages in the annual performance report
12.1 Objective 2: Economic regulation	Page 39 - Page 40
12.2 Objective 4: Monitoring	Page 41
12.3 Objective 5: Tribunal	Page 41

13. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether

## The Ports Regulator of South Africa

### REPORT OF THE AUDITOR-GENERAL

the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

14. I did not identify any material findings on the usefulness and reliability of the reported performance information for the three selected objectives.

#### OTHER MATTER

15. I draw attention to the matter below:

Achievement of planned targets

16. The annual performance report on page 38 - page 42 includes information on the achievement of planned targets for the year and explanations provided for the under and over achievement of a significant number of targets.

#### Report on the audit of compliance with legislation

17. In accordance with the PAA and the general notice issued in terms thereof. I have a responsibility to report material findings on the compliance of the entity with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.
18. I did not identify any instances of material non-compliance with selected specific matters of applicable legislation, as set out in the general notice issued in terms of the PAA.

#### Other information

19. The accounting authority of the Ports Regulator of South Africa is responsible for the other information. The other information comprises the information included in the annual report. The other information not include the financial statements, the auditor's report thereon and those selected objectives presented in the annual performance report that have been specifically reported on in the auditor's report.
20. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.
21. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected objectives presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work I have performed on the other information obtained prior to the date of this auditor's report. I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

## The Ports Regulator of South Africa

### REPORT OF THE AUDITOR-GENERAL

#### Internal control deficiencies

22. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objectives was not to express any form of assurance thereon. I did not identity any significant deficiencies in internal control.

Auditor-General

Pietermaritzburg

31 July 2017



AUDITOR-GENERAL  
SOUTH AFRICA

*Auditing to build public confidence*

## The Ports Regulator of South Africa

### STATEMENT OF FINANCIAL POSITION for the year ended 31 March 2017

	<i>Notes</i>	2017 R'000	2016 R'000
<b>ASSETS</b>			
<b>Non-current assets</b>		<b>1 354</b>	<b>633</b>
Property, plant and equipment	8	955	620
Intangible asset	9	58	11
Loans and receivables	10	341	2
<b>Current assets</b>		<b>15 366</b>	<b>13 890</b>
Trade and other receivables	11	53	52
Cash and cash equivalents	12	15 313	13 838
<b>TOTAL ASSETS</b>		<b>16 720</b>	<b>14 523</b>
<b>LIABILITIES</b>			
<b>Current liabilities</b>		<b>1 050</b>	<b>483</b>
Trade and other payables	13	524	161
Provisions	15	526	322
<b>TOTAL LIABILITIES</b>		<b>1 050</b>	<b>483</b>
<b>NET ASSETS</b>			
<b>CAPITAL AND RESERVES</b>			
Accumulated surplus		15 670	14 040
<b>TOTAL NET ASSETS</b>		<b>15 670</b>	<b>14 040</b>
<b>TOTAL NET ASSETS AND LIABILITIES</b>		<b>16 720</b>	<b>14 523</b>

## The Ports Regulator of South Africa

### STATEMENT OF FINANCIAL PERFORMANCE at 31 March 2017

	<i>Notes</i>	<b>2017</b> R'000	<b>2016</b> R'000
<b>REVENUE</b>			
<i>Revenue from non-exchange transactions</i>		<b>28 561</b>	<b>27 627</b>
Government grants and subsidies	2	28 561	27 627
<i>Revenue from exchange transactions</i>		<b>7</b>	-
Sale of goods and rendering of services	3	7	-
Other income		-	-
<b>TOTAL REVENUE</b>		<b>28 568</b>	<b>27 627</b>
<b>EXPENDITURE</b>			
Administration expenses	5	3 696	2 109
Amortisation and depreciation		176	433
Staff costs	6	12 191	11 579
Audit fees		320	288
Legal fees		398	1 015
Other operating expenses	7	11 017	4 757
<b>TOTAL EXPENDITURE</b>		<b>27 868</b>	<b>20 181</b>
Finance income	4	957	466
<b>OTHER GAINS/ (LOSSES)</b>		<b>(27)</b>	<b>19</b>
Gain / (loss) on disposal of assets			
<b>SURPLUS/ (DEFICIT) FOR THE PERIOD</b>		<b>1 630</b>	<b>7 931</b>

## The Ports Regulator of South Africa

### STATEMENT OF CHANGES IN NET ASSETS For the year ended 31 March 2017

	R'000 Accumulated Surplus
<b>Opening balance at 1 April 2015</b>	6 109
Surplus for the year	7 931
<b>Balance on 01 April 2016</b>	<u>14 040</u>
Surplus/(Deficit) for the year	1 630
<b>Closing balance as at 31 March 2017</b>	<u><u>15 670</u></u>

## The Ports Regulator of South Africa

### CASH FLOW STATEMENT For the year ended 31 March 2017

	<i>Note</i>	<b>2017</b> R'000	<b>2016</b> R'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts		<b>28 568</b>	<b>27 627</b>
Transfers received	2	28 561	27 627
Sale of goods and services	3	7	-
Other income		-	-
Payments		<b>(27 465)</b>	<b>(19 735)</b>
Employee cost	6	(12 191)	(11 579)
Suppliers and other payments		(15 274)	(8 156)
Net cash flows from operations		<b>1 103</b>	<b>7 892</b>
Interest paid		-	-
Finance income		957	466
<b>Net cash flow available from operating activities</b>	<b>1 6</b>	<b>2 060</b>	<b>8 358</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Acquisition of :			
Property, plant and equipment	8	(584)	(2)
Intangible assets	9	-	-
Proceeds from De-recognition of Property, plant and equipment		-	24
<b>Net cash flows from investing activities</b>		<b>(584)</b>	<b>22</b>
Net increase/decrease in cash and cash equivalents		1 476	8 381
Cash and cash equivalents at beginning of the year		13 838	5 457
<b>Cash and cash equivalents at end of year</b>		<b>15 313</b>	<b>13 838</b>



## The Ports Regulator of South Africa

### STATEMENT OF COMPARISON TO BUDGET For the year ended 31 March 2017

Economic Classification	Approved Budget	Adjustments	Final Approved Budget	Actual	Variance
	R'000	R'000	R'000	R'000	R'000
<b>Revenue</b>					
Transfers	28 561	0	28 561	28 561	0
Interest Received	299	0	299	957	658
Sale of good and services	0	0	0	7	7
	<b><u>28 860</u></b>	<b><u>0</u></b>	<b><u>28 860</u></b>	<b><u>29 525</u></b>	<b><u>665</u></b>
<b>Expenses</b>					
Depreciation & Amortisation	690	0	690	176	514
Compensation of employees	12 673	0	12 673	12 191	482
Goods & Services	15 497	0	15 497	15 501	(4)
Loss on disposal of assets	0	0	0	27	(27)
	<b><u>28 860</u></b>	<b><u>0</u></b>	<b><u>28 860</u></b>	<b><u>27 895</u></b>	<b><u>965</u></b>
<b>Surplus/(Deficit)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1 630</b>	<b>1 630</b>
<b>Capital Budget</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>584</b>	<b>(584)</b>
	0	0	0	584	(584)

\*Please refer to Note 21 of the Annual Financial Statements for detailed variance analysis between budget and actual amounts.

# 1 ACCOUNT 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 up 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	- 10 years
Computer equipment	- 5 years
Motor vehicles	- 7 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). The subsequent measurement of PPE is carried out either using the cost model.

Property, plant and equipment is derecognised on disposal or when the future economic benefits or no service potential are expected from its use or disposal. When PPE is derecognised, the gain or loss upon de-recognition is included in surplus or deficit for the period.

## 1.6 BOOKS

Books consist of library material that is used by the entity for the research, legal and economic regulation activities. Books are recognised at cost upon acquisition. There are subsequent measurement that occur every year for each book until the book has reached its useful life. Subsequent measurement is done using the cost model. Reviews are carried out at the end of each financial year. Upon de-recognition, the gain/loss is included in the surplus or deficit for the period.

Books	-8 years
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## 1.7 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.

Computer Software	- 5 years
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## 1.8 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

## 1.9 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.

## 1.10 FINANCIAL INSTRUMENTS

Financial instruments are initially recognised at cost.

### 1.10.1 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.

### 1.10.2 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.

## 1.11 BUDGET INFORMATION

The budget of the entity is prepared on a cash basis while the annual financial statements are prepared on an accrual basis. The budget covers the period from 01 April at the beginning of each period until 31 March being the end of the period.

The budget is prepared based on the appropriations from Parliament and a reconciliation is included in the statement of comparison to budget.

## 1.12 GOING CONCERN

The financial statements of the entity are presented on a going concern basis. This is as a result that the assets of the entity exceeds its liabilities as at 31 March 2017. Based on this, there is no uncertainty regarding the continued existence of the entity for the foreseeable future. It must be noted that the entity relies on transfers from the appropriation to fund its operations, therefore there is no doubt regarding the funding of the future operations of the entity and the ability to realise its assets and settle its liabilities.

### 1.13 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 and are subject to an insignificant risk of changes in value.

### 1.14 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.

### 1.15 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.

### 1.16 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.

### 1.17 UNAUTHORISED AND IRREGULAR EXPENDITURE

Irregular expenditure is expenditure that is contrary to the Public Finance Management Act (PFMA) and the Public Office Bearers Act (Act No. 20 of 1998) or is in contravention of the entity's supply chain management policies. Irregular expenditure excludes unauthorised expenditure. Irregular 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.

Unauthorised expenditure is expenditure that has not been budgeted for, expenditure that is not in terms of the conditions of an allocation received from another sphere of government or organ of state and expenditure in the form of a grant that is not permitted. Unauthorised expenditure is accounted for as an expense in the Statement of Financial Performance and where recovered, it is subsequently accounted for as income in the Statement of Financial Performance.

### 1.18 EMPLOYEE COSTS

The employee costs represent the actual expenditure for basic salaries, employer contributions, allowances and performance bonuses. The pension benefits are administered by the Government Pensions Administrations Agency; the Ports Regulator contributes to the agency with the balance coming from employees as per the rules governing pension. Medical aid benefits are administered by Discovery Medical Aid and the Ports Regulator contributes towards the medical aid service provider. The group life benefits are administered by Liberty Life, all benefits as per the conditions of service are available to employees.

	<b>2017</b> <b>R'000</b>	<b>2016</b> <b>R'000</b>
<b>2. TRANSFERS AND SUBSIDIES</b>		
Department of Transport	<u>28 561</u>	<u>27 627</u>

	<b>2017</b> <b>R'000</b>	<b>2016</b> <b>R'000</b>
<b>3. SALE OF GOODS AND SERVICES</b>		
Complaint lodging fee	7	-

#### 4. FINANCE INCOME

	2017 R'000	2016 R'000
Interest income	957	466

#### 5. ADMINISTRATIVE EXPENSES

	2017 R'000	2016 R'000
Accounting fee	-	-
Regulator members' remuneration	17 1 860	1 318
Bank charges	23	18
Entertainment	-	-
Internal audit	392	206
Stationery and printing	222	148
Subscriptions	49	50
Training and staff development	927	144
Venues and facilities	223	225
	<b>3 696</b>	<b>2 109</b>

#### 6. STAFF COSTS

	2017 R'000	2016 R'000
Salaries and wages	10 212	9 679
Performance bonus/awards	1 371	1 309
Employer contributions	608	591
	<b>12 191</b>	<b>11 579</b>

#### 7. OTHER OPERATING EXPENSES

	2017 R'000	2016 R'000
Advertising	152	50
Catering	42	34
Communication costs	188	218
Computer expenses	462	399
Conferences	-	-
Consultants	2 296	413
Consumables	22	41
Couriers and delivery charges	18	11
Contracted and temporary employees	-	-



Data and information storage		17	16
Movement in leave pay provision		149	(23)
Movement in legal costs	20	55	-
Insurance		64	61
Maintenance and repairs		9	7
Motor vehicle expenses		7	6
Municipal services		206	189
Parking		143	141
Operating lease		1 611	1 339
Training & development - Members		785	-
Travel, subsistence and disbursements			
Staff		2 441	946
Travel, subsistence and disbursements		2 420	909
Regulator members			
		<b>11 087</b>	<b>4 757</b>

## 8. PROPERTY, PLANT AND EQUIPMENT

<b>2017</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	2 381	(1 753)	628
Office furniture and fittings	979	(799)	180
Books	74	(52)	22
Motor vehicle	189	(64)	125
	<b>3 624</b>	<b>(2 669)</b>	<b>955</b>
<b>2016</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	2 356	(2 167)	189
Office furniture and fittings	994	(744)	250
Books	74	(45)	29
Motor vehicle	189	(37)	152
	<b>3 613</b>	<b>(2 993)</b>	<b>620</b>

## RECONCILIATION OF PROPERTY, PLANT AND EQUIPMENT FOR 31 MARCH 2017

	Opening carrying value R'000	De-recognition R'000	Additions R'000	Depreciation R'000	Closing carrying value R'000
Computer equipment	189	(20)	580	(121)	628
Office furniture & fittings	250	(7)	4	(67)	180
Motor Vehicle	152	-	-	(27)	125
Books	29	-	-	(7)	22
	<b>620</b>	<b>(27)</b>	<b>584</b>	<b>(222)</b>	<b>955</b>

## RECONCILIATION OF PROPERTY, PLANT AND EQUIPMENT FOR 31 MARCH 2016

	Opening carrying value R'000	Derecognition R'000	Additions R'000	Depreciation R'000	Closing carrying value R'000
Computer equipment	336	(4)	2	(145)	189
Office furniture & fittings	365	-	-	(115)	250
Motor Vehicle	177	-	-	(25)	152
Books	37	-	-	(8)	29
	<b>915</b>	<b>(4)</b>	<b>2</b>	<b>(293)</b>	<b>620</b>

GRAP 17 requires the entity to review the useful life for all classes of Property, Plant and Equipment (PPE). The Regulator reviewed the useful lives and changed the estimates for all classes of PPE. The reason for the change of the estimate was as a result that the assets are kept beyond their initial estimated useful life. The Regulator also revised the residual value to zero% since majority of assets are kept up until the end of their useful life and there's no intention to sell the assets at the end of their useful life. The Regulator also could not reliably estimate the value of the sale to be realised at the end of the asset's useful life.

## 9. INTANGIBLE ASSET

2017	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer software	663	(605)	58

Intangible assets 2016	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer software	663	(652)	11

### RECONCILIATION OF INTANGIBLE ASSETS COMPUTER SOFTWARE AT 31 MARCH 2017

	Opening carrying value R'000	Disposal R'000	Additions R'000	Amortisation & Restatement R'000	Closing carrying value R'000
Computer software	11	-	-	47	58
	<b>11</b>	-	-	<b>47</b>	<b>58</b>

GRAP 31 requires the useful life and the amortisation method to be reviewed at the end of each period. The Regulator changed the estimate of the useful life of the intangible assets after realising that the assets will be kept for a period longer than had initially estimated. It was noted that all intangible assets have a nil carrying value at the end of the financial year however these assets incorporate the future economic benefit which would be experienced through the use of each asset as per the accounting policy of the entity. A reliable estimate of the revised carrying amount could not be determined as an active market for the intangible assets could not be identified since these intangible assets are old and are not easily available for new buyers on the market based on their old model. The Regulator has not spent any funds to enhance the nature of the intangible assets not spend any funds to prolong the useful life of the intangible assets. As a result, the amortisation method of intangible assets was not changed. The reason for no change is because the operations of the entity may possibly change in the next 3 to 4 years of which these assets may no longer be used or its use modified when the change occurs.

## RECONCILIATION OF INTANGIBLE ASSETS COMPUTER SOFTWARE AT 31 MARCH 2016

	Opening carrying value R'000	Disposal R'000	Additions R'000	Amortisation R'000	Closing carrying value R'000
Computer software	151	-	-	(140)	11
	<u>151</u>	<u>-</u>	<u>-</u>	<u>(140)</u>	<u>11</u>

## 10. LOANS AND RECEIVABLES

	2017 R'000	2016 R'000
<b>Non-current</b>		
Deposit for car parking and lease	<u>341</u>	<u>2</u>

## 11. TRADE AND OTHER RECEIVABLES

	2017 R'000	2016 R'000
Prepaid expenditure	<u>53</u>	<u>52</u>

## 12. CASH AND CASH EQUIVALENTS

	2017 R'000	2016 R'000
Bank balances		
Standard bank cheque account	187	369
Standard bank Investment account	15 126	13 469
	<u>15 313</u>	<u>13 838</u>

### 13. TRADE AND OTHER PAYABLES

	2017 R'000	2016 R'000
Accruals	500	137
Receiver of Revenue	-	-
Discovery medical aid	24	24
Total Movements	-	-
- Amounts receivable at beginning of the year	-	-
- Transactions for the year	-	-
	<u>524</u>	<u>161</u>

### 14. OPERATING LEASE COMMITMENTS

The Ports Regulator entered into a three year operating lease agreement with Delta Property Fund that commenced on 01 October 2016 for R 128 146.90 per month including vat with an escalation clause of 8% annually. The lease will expire on 30 September 2018.

	2017 R'000	2016 R'000
Minimum lease payments due		
- not later than one year	1 599	726
- later than one year and not later than five years	2 624	-
- later than five years	-	-
	<u>4 223</u>	<u>726</u>

### 15. LEAVE PAY PROVISION

	2017 R'000	2016 R'000
Carrying amount at the beginning of the period	322	345
Additional provisions made in the current period	55	-
Amount utilised in the current period	149	(23)
Carrying amount at the end of period	<u>526</u>	<u>322</u>

Leave pay provision comprises the value of leave days owing to employees and legal costs as at 31 March 2017.

## 16. CASH GENERATED FROM OPERATIONS

	2017 R'000	2016 R'000
Surplus/(Deficit) for the period	1 630	7 931
<b>Non-cash items</b>	<b>430</b>	<b>427</b>
Depreciation	222	293
Amortisation	(47)	140
(Gain) / Loss on sale of assets	27	-
<b>Working capital changes</b>		
Increase / (Decrease) in payables	363	42
(Decrease) / Increase in provisions	204	(23)
(Increase) / Decrease in receivables	(1)	(25)
(Increase) / Decrease in inventory	-	-
Other working capital movements	(338)	-
<b>Net cash flow from operating activities</b>	<b>2 060</b>	<b>8 358</b>

## 17. REGULATOR MEMBER'S REMUNERATION

	No of individuals	2017 R'000	2016 R'000
Members	10*	1 860	1 318

There is a current total of 10 Regulator Members,

\*Ms. P Mazibuko resigned effective from 31 January 2017.

### Regulator Members' Remuneration

Member	2017 R'000	2016 R'000	2015 R'000
G Serobe	-	18	51
T Tsautse	232	178	143
A Ngcobo	170	160	235
A Mahlalutye	118	108	137
*P Mazibuko	66	149	127
D Thwala	182	205	167
T Mufamadi	209	85	-
A Hirachund	204	66	-

G Taylor	173	102	-
G Thimane	168	74	-
R Khan	179	94	-
L Mabandla	157	79	-
<b>Total</b>	<b>1 860</b>	<b>1 318</b>	<b>926</b>

## 18. EXECUTIVE MEMBER'S REMUNERATION

<b>No of individuals</b>	<b>2017</b>	<b>2016</b>
	<b>R'000</b>	<b>R'000</b>
3	5 401	5 087

<b>Marissa Damons</b> (Executive Legal Manager)	<b>2017</b>	<b>2016</b>
	<b>R'000</b>	<b>R'000</b>
Basic Salary	822	774
Performance Bonus	192	210
Taxable allowance	321	285
Medical Aid Allowance	31	47
<b>Total</b>	<b>1 366</b>	<b>1 316</b>

<b>Thokozani Mhlongo</b> (Chief Financial Officer)	<b>2017</b>	<b>2016</b>
	<b>R'000</b>	<b>R'000</b>
Basic Salary	637	593
Performance Bonus	173	179
Acting Allowance	-	54
Taxable allowance	390	321
Medical Aid Allowance	35	32
<b>Total</b>	<b>1 235</b>	<b>1 178</b>

<b>Mahesh Fakir</b> ( Chief Executive Officer)	<b>2017</b>	<b>2016</b>
	<b>R'000</b>	<b>R'000</b>
Basic Salary	1 721	1 591
Taxable Allowance	690	668
Performance Bonus	341	334
Travel Allowance	48	-
<b>Total</b>	<b>2 800</b>	<b>2 593</b>

## 19. CONTINGENT LIABILITIES

There were no contingent liabilities as at 31 March 2017

## 20. RECOGNIZED SUBSEQUENT EVENTS

The Ports Regulator under one of its programmes which is the Tribunal, was taken on review to the courts in one of the tribunal matters. The court issued an order against the Ports Regulator. The matter was tabled with the taxation master of the court where an amount of R 54 836 on legal costs was due to be paid. The taxation master order was issued on June 2017 which then qualified to be an adjusting subsequent event in terms of GRAP.

## 21. 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 three 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.
Staff costs	Unspent expenditure arose due to delays in appointment of interns and funded posts vacancies.
General expenses	Due to excessive legal fees incurred in the previous financial year (2015/16), unspent expenditure arose due to additional budgeting on legal for the 2016/17.
<b>Capital Budget</b>	
Property Plant and equipment	Old computer equipment and a refrigerator were not functioning properly and had reached the end of their economic useful lives therefore a new computer equipment and a refrigerator were acquired.



	<b>2017</b>	<b>2016</b>
	<b>R'000</b>	<b>R'000</b>

## 22. UNAUTHORISED, IRREGULAR AND FRUITLESS AND WASTEFUL EXPENDITURE

Unauthorised, irregular, fruitless and wasteful expenditure	-	-
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## 23. TAXATION

No provision is made for taxation as the entity is exempt from taxation per Section 10(1) of the Income Tax Act, Act No 58 of 1962.

## 24. RISK MANAGEMENT

	<b>2017</b>	<b>2016</b>
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### INTEREST RATE RISK

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

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

	<b>2017</b>	<b>2016</b>
	<b>R'000</b>	<b>R'000</b>
Not later than one month		
Payables	524	161

## MAXIMUM CREDIT RISK EXPOSURE

**2017**      **2016**  
**R'000**      **R'000**

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	15 313	13 838
Trade and other receivables from exchange transactions	53	52

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

## 25. RELATED PARTY TRANSACTIONS

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

Description of transaction	2017 R'000	2016 R'000
Transfers from the Department of Transport	28 561	27 627

## 26. CHANGE IN ACCOUNTING ESTIMATE

The Regulator during the financial year changed the accounting estimates for its assets, the change in accounting estimates was made after careful consideration of the GRAP standard requirements to review the useful life of the assets every year. The Regulator has kept its different class of assets far beyond their useful life which is indicative that the useful life must be reviewed as required by the standards of GRAP. The Regulator also decreased the residual value to zero % for all class of assets that had residual values. The residual values were decreased as the past events have indicated that there is no willing buyer for the assets at the end of their useful lives since most/all assets have been kept beyond their useful lives. These assets have no active market at the end of their useful lives thus no value can be realised at the end of their useful life. The effect of the change in accounting estimate is as follows:

**2017**

**Statement of financial performance**

Depreciation (PPE)	(66)
Amortisation (Intangibles)	(58)

**Statement of Financial position**

Property Plant and Equipment	00
Accumulated depreciation (PPE)	(66)
Accumulated amortisation	(58)

**Future Effect on Statement of Financial Performance**

Additional Depreciation (PPE)	19
Additional Amortisation (Intangible assets)	19

**Future Effect on Statement of Financial Position**

Accumulated depreciation	19
Accumulated amortisation	19



Ports Regulator members at oversight visit in Richards Bay

