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IN THE NORTH GAUTENG HIGH COURT, PRETORIA

REPUBLIC OF SOUTH AFRICA

CASE NUMBER:

In the matter between:

THE MINISTER OF POLICE

First Applicant

THE MINISTER OF PUBLIC WORKS

Second Applicant

THE MINISTER OF DEFENCE

Third Applicant

THE MINISTER OF STATE SECURITY

Fourth Applicant

and

THE PUBLIC PROTECTOR

Respondent

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE THAT the applicants will, on Friday 8 November 2013 at 14h00 or so soon thereafter as counsel may be heard, apply to the above Honourable Court for orders in the following terms:

1. The Uniform Rules of Court relating to service and process be dispensed with in order that this application be heard as one of urgency in terms of rule 6(12).

2. That pending the applicants written comments and/or inputs on the respondent's provisional report on an investigation into allegations of impropriety and unethical conduct relating to the installation and implementation of security measures by the department of public works at and in respect of the private residence of President J Zuma at Nkandla in the KwaZulu Natal Province ("**the provisional report**") that:
 - 2.1 the respondent is interdicted and restrained from releasing her provisional report to "*other affected, implicated and interested parties*" and any other person and/or organisation;
 - 2.2 the applicants be and is hereby granted an extension to the 15th November 2013 to submit their written comments and/or inputs on the respondent's provisional report;
 - 2.3 upon receipt of written comments and/or inputs from the applicants, the respondent is required to submit her revised provisional report, if any, to the applicants for purposes of determining whether or not the security concerns raised by the applicants have been addressed within 10 (ten) days, or any other time as this Honourable Court may deem fit, prior to releasing it to the "*other affected, implicated and interested parties*" and any other person and/or organisation; and
 - 2.4 the applicants be given a further opportunity to peruse the revised provisional report, if any, to determine whether all the security concerns have been addressed and if not, to be granted a further opportunity to make written comments or inputs to the respondent within seven (7) days.

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3. In the event that the respondent fails to address the security concerns raised by the applicants, in her "revised" provisional report, the applicants are granted leave to approach this Honourable Court on these papers duly supplemented for an appropriate relief.
4. Costs in the event of opposition
5. Further and alternative relief.

TAKE NOTICE FURTHER that the founding affidavit of **NKOSINATHI EMMANUEL MTHETHWA** and annexures thereto will be used in support of this application.

TAKE NOTICE FURTHER that the applicant has appointed **STATE ATTORNEY PRETORIA 316 Salu Building Corner Thabo Sehume and Francis Baard Street, Pretoria** at which it will accept all notices and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend to oppose this application you are required:

- (a) To notify the applicant's attorneys in writing on or before 9am on 8 November 2013; and
- (b) To file your answering affidavit by 10am on 8 November 2013 if any; and further
- (c) That you are required to appoint in such notification an address referred to in Rule 6 (5)
 - (b) at which you will accept notice and service of all documents in these proceedings.

DATED at **PRETORIA** on this the 7TH day of NOVEMBER 2013.

4

Mathe

STATE ATTORNEY PRETORIA

APPLICANTS ATTORNEY

ATTENTION: SP MATHEBULA

Cnr Francis Baard Street & Thabo Sehume

Private Bag X91, Pretoria 0001

Tel No: 012 309 1627

Fax No: 086 629 1830

Email: simathebula@justice.gov.za

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT

AND TO: The Respondent

The Public Protector

Attention: Adv TN Madonsela

175 Lunnnon Street

Hillcrest Office Park, 0083

Tel: 012 366 7000

Fax: 012 362 3473

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IN THE NORTH GAUTENG HIGH COURT, PRETORIA

REPUBLIC OF SOUTH AFRICA

CASE NUMBER:

In the matter between:

THE MINISTER OF POLICE

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THE MINISTER OF PUBLIC WORKS

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Fourth Applicant

and

THE PUBLIC PROTECTOR

Respondent


FOUNDING AFFIDAVIT

I, the undersigned

NKOSINATHI EMMANUEL MTHETHWA

do hereby make oath and state that:

1. I am the Minister of Police appointed in terms of sections 91 and 206 of the Constitution of the Republic of South Africa, 1996 ("the Constitution") and the first applicant with my address as c/o the State Attorney Pretoria 316 Salu

ENM. 

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Building Cnr Thabo Sehume and Francis Baard Streets, Pretoria and I am duly authorised to depose to this affidavit on behalf of all the applicants.

1.1. The facts contained herein are, unless the context otherwise indicates, within my own personal knowledge and are to the best of my knowledge and belief both true and correct.

1.2. Any legal submissions that are made by me are made on the advice of my legal representatives.

1.3. Due to the urgency of the application I was not able to attach the relevant confirmatory affidavits of all those persons concerned.

THE PARTIES

2. The second applicant is the Minister of Public Works appointed in terms of section 91 of the Constitution with his address as c/o the State Attorney Pretoria 316 Salu Building Cnr Thabo Sehume and Francis Baard Streets, Pretoria.

3. The third applicant is the Minister of Defence appointed in terms of section 91 of the Constitution with his address as c/o the State Attorney Pretoria 316 Salu Building Cnr Thabo Sehume and Francis Baard Streets, Pretoria.

RNM JSM

- 7
4. The fourth applicant is the Minister of State Security appointed in terms of section 91 of the Constitution with his address as c/o the State Attorney Pretoria 316 Salu Building Cnr Thabo Sehume and Francis Baard Streets, Pretoria.
 5. The respondent is the Public Protector cited herein in her official capacity and appointed in terms of section 183 of the Constitution read with sections 1A and 2 of the Public Protector Act, 23 of 1994 ("**the Act**"), situated at 175 Lunnon Street, Hillcrest Office Park, 0083.

BACKGROUND

6. On the 1st November 2013, I together with the applicants received a provisional report on an investigation into allegations of impropriety and unethical conduct relating to the installation and implementation of security measures by the Department of Public Works at and in respect of the private residence of the President J Zuma at Nkandla in the Kwazulu Natal Province ("**the provisional report**") from the respondent under cover of a letter. The letter required that the applicants were given an opportunity to raise any matter in the report which in our view could have an impact on or could compromise the security of the President and should therefore be omitted. The time period to report on these issues was by 6 November 2013. A copy of the letter is annexed hereto marked "**NEM1**"



AKM

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7. On 4th November 2013, the applicants responded to the letter under the hand of the Minister of Public Works requesting an extension of time to submit written comments by the 15th November 2013. The reason for the request was that the provisional report is voluminous and consists of 357 pages. It was pointed out in the letter that the applicants require time to properly analyse the report and to identify all the security concerns. A copy of this letter is annexed hereto marked "**NEM2**".
8. On 5 November 2013, the applicants received the response from the respondent stating that the request was declined and that an additional two days were granted until 8 November 2013 to provide a response. The respondent further stated that she will continue to release the provisional report on Saturday 9 November 2013 whether she receives our comments or not. A copy of this letter is annexed hereto marked "**NEM3**".
9. On 7 November 2013 the applicants responded to the respondent's letter requesting a further extension to 15 November 2013 due to an extremely short timeframe that was provided by the respondent to the applicants of an extra two (2) days. All the applicants require reasonable time to peruse the provisional report and to interrogate security matters that are raised in the provisional report which breach national security. A copy of this letter is annexed hereto marked "**NEM4**".



ENM

10. It has come to the applicants' attention that on 6 November 2013 it was reported in the Times that the respondent has granted the applicants an extension to submit comments to her report by Friday 8 November and thereafter she would release to the "*other affected, implicated and interested parties*" by the 9th November 2013. The copy of the Times article to this effect is annexed hereto marked "**NEM5**".

THIS APPLICATION

11. I, as the Minister of Police, together with the National Commissioner is responsible, in terms of section 218(1)(l) of the Interim Constitution read with section 24 contained in schedule 6 of the Constitution, for the national protection services of VIP's which include the President. Section 206(3) of the Constitution also states that the objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.
12. The respondent occupies an important office in our constitutional democracy. The respondent is obliged by law to act with integrity, honesty and her conduct must be beyond reproach. Her office seeks to strengthen constitutional democracy in the Republic.

13. The functions of the respondent are set out in section 182 of the Constitution and in the Act. In terms of section 182(5) of the Constitution a report issued by the respondent must be open to the public unless exceptional circumstances, to be determined in terms of national legislation, require that a report be kept confidential.
14. The respondent has appreciated on finalisation of her provisional report that the provisional report cannot be released to anybody else including "other affected, implicated and interested parties" prior to comment by the applicants on matters that may affect security of state and the President. It was for that reason that the applicant, whilst unprompted released the provisional report to the applicants because she was aware that the provisional report in its current form contains classified, top secret and confidential matters which may impact on the security of the state and the President.
15. The respondent is also aware that her report is voluminous and requires attention by at least four departments and trusted by law to ensure that the security of the state and the President is not compromised. On this basis alone, common sense dictates that an extremely short timeframe respondent imposed on the applicants to comment was wholly unreasonable and untenable to achieve.

LHM

JPM

- 11
16. The respondent is obliged to provide reasonable opportunity to the applicants to comment on her provisional report and identify aspects of the provisional report which must be omitted from her provisional report due to the breach of state security and the compromise to the security of the President.
 17. The reading of the provisional report thus far, reveal a plethora of breaches of state security which ought to be identified for the respondent to omit from the provisional report. The process of identification of such matters impacting on security is cumbersome. The applicants have put together a dedicated team of departmental officials who are experts on matters of security to comment on the report. They are working day and night on this matter in order to ensure that the comments are submitted to the respondent within a reasonable time requested. They have already started with the comments. The applicants require a further time until at least 15 November 2013 to submit the comments to the respondent.
 18. A release of the provisional report to third parties such as "other affected, implicated and interested parties" without prior authorisation of the applicants who are entrusted by relevant legislation to grant authorisation for classified and/or confidential information to be released to third parties is unlawful and carries with it a criminal penalty.

ANN

[Signature]

19. The respondent is precluded by law from releasing classified, top secret and confidential information which may compromise the security of the state and the President and that she is interdicted from releasing her provisional report until such time as she has received comments from the applicants on matters which ought to be omitted from the provisional report.
20. If the provisional report is released in its current form as intended by the respondent on 9 November 2013, the applicants will suffer irreparable harm and the security of the state and the safety of the President will be severely compromised. The applicants are entitled to an extension of time as requested in order for them to comprehensively comment on matters of security that appear in the provisional report. The respondent's refusal to grant the extension is unreasonable and unwarranted. A mere extension of 7 days will do no harm to the respondent despite her determination to have her provisional report released soonest.
21. It is worrying that the respondent is determined to release the provisional report to third parties in breach of security and the law. It is also worrying that the respondent is in such great haste to have the provisional report released despite a reasonable time requested by the applicants to comment on it. It is not clear what has become so extremely urgent for the respondent that the provisional report ought to be released on Saturday the 9th November 2013 and not on any other day thereafter despite a request for more time to comment from the applicants.

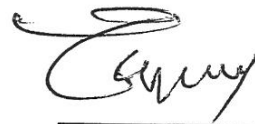
22. The reason proffered by the respondent that affected, implicated and interested parties will be prejudiced is unsound as these parties have not as yet, been informed of their status. The article in the Times reveals that correspondence between the parties has been leaked to the media something that we deem undesirable especially if it emanated from the office of the respondent.
23. This is an important matter that deals with the security of the state and the President and the respondent is required to deal with it within the bounds of the law.
24. This application is extremely urgent for the reasons set out above and those that I deal with herein below. On the 5th November the respondent granted the applicants an extension of two (2) days which was clearly inadequate. On the 7th November the applicants addressed a letter to the respondent informing her that they require a further extension. The applicants have promptly addressed this matter and have not delayed in taking the necessary steps in protecting their rights and interest. Most importantly the respondent has informed the applicants that if she does not receive comments by 8 November she will proceed to release the provisional report in its current form which implies that she would release the provisional report with all security breaches contained in the provisional report.

25. The applicants have a clear right and if not, a prima facie right has been fully demonstrated as stated above. This matter cannot for the above reasons be heard by this Honourable Court on any other day other than on Friday 8th November 2013 because if it is not entertained on that day, an irreparable harm will be suffered when the provisional report is eventually released by the respondent on the 9th November 2013. The applicants do not have any other alternative remedy which can adequately address their concerns and protect their rights other than approaching this Court on an urgent basis. The balance of convenience favours the granting of the interim interdict as the respondent will suffer no harm or prejudice if the provisional report is not released on the 9th November 2013.
26. The applicants also request that upon receipt of written comments and/or inputs from us, the respondent is required to submit her revised provisional report, if any, to the applicants for purposes of determining whether or not the security concerns raised by the applicants have been addressed prior to releasing it to the *"other affected, implicated and interested parties"* and any other person and/or organisation. The applicants require a further opportunity to peruse the revised provisional report, if any, to determine whether all the security concerns have been addressed and if not, and to be granted a further opportunity to make written comments or inputs to the respondent within seven (7) days.

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WHEREFORE, applicants pray that the prayers in the notice of motion, to which this affidavit is annexed, be granted.

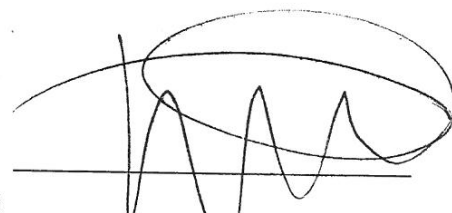
DATED AT PRETORIA ON THIS THE 7TH DAY OF NOVEMBER 2013



DEPONENT

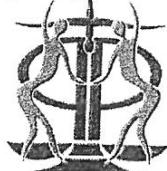
I CERTIFY THAT THE DEPONENT SATISFACTORILY IDENTIFIED HIMSELF TO ME, HAS ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, WHICH WAS SIGNED AND SWORN TO BEFORE ME AT PRETORIA ON THE 7TH DAY OF NOVEMBER 2013 AND HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH WHICH OATH HE CONSIDERS TO BE BINDING ON HIS CONSCIENCE.

SYDWELL SIBONGILE MKETSU
PRACTISING ATTORNEY
COMMISSIONER OF OATHS (Ex Officio)
HATFIELD GABLES (HATMED)
484 HILDA STREET, OFFICE SFO4, FLOOR 02
P. O. BOX 362, PRETORIA, 0001
TEL: 012 362 4014 FAX: 012 362 4419


COMMISSIONER OF OATHS

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NEM 1



PUBLIC PROTECTOR
SOUTH AFRICA

MOŠIRELETSI WA BATHO • MOŠIRELETSI WA BATHO
MUSIRHELELI WA VANHU • MUSIRHELELI WA VANHU
OPENBARE BESKERMER • UMKHUSELI WABANTU • UMKHUSELI WABANTU

HEAD OFFICE: PRETORIA

Private Bag X677, Pretoria 0001 • 175 Lunnnon Street • Hillcrest Office Park, 0083
Tel: (012) 366 7000 • Fax: (012) 362 3473

1 November 2013

The Honourable Mr T T Nxesi MP
The Minister of Public Works
Private Bag X890
PRETORIA
0001

Dear Minister Nxesi


PROVISIONAL REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF IMPROPRIETY AND UNETHICAL CONDUCT RELATING TO THE INSTALLATION AND IMPLEMENTATION OF SECURITY MEASURES BY THE DEPARTMENT OF PUBLIC WORKS AT AND IN RESPECT OF THE PRIVATE RESIDENCE OF PRESIDENT J ZUMA AT NKANDLA IN THE KWAZULU-NATAL PROVINCE

1. As agreed during our meetings in connection with my investigation of the matter concerned, I hereby provide you with an electronic copy of my Provisional Report for your attention.
2. The purpose of presenting it to you at this stage is solely to provide you with an opportunity to raise any matter in the report which in your view could have an impact on or could compromise the security of the President and should therefore be omitted.
3. Should you wish to raise any such concerns, kindly provide me with the details thereof in writing.
4. I have also provided the Ministers of State Security, Police and Defence and Military Veterans with an electronic copy of the report and requested them to do the same.

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5. Once I have considered any security concerns raised in the final version of my Provisional Report, you and the other affected, interested and implicated parties will be provided with a copy thereof and an opportunity to respond to its contents.
 6. Your comments and that of the other parties will be considered and where applicable, incorporated in my final report.
 7. Kindly note that the Provisional Report is a confidential document which, in terms of section 7(2) of the Public Protector Act, 1994, may only be provided to any other person with my consent.
 8. For security reasons and to protect the contents of the Provisional Report, I have equipped it with a password, which will be provided to you by the Minister of Police.
 9. It would be appreciated if I could receive your comments as referred to in paragraph 2 above, by not later than 6 November 2013.

Your willingness to assist and cooperation in my investigation of this matter is sincerely appreciated.

Best wishes


ADV. T. N. MADONSELA
PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA

NEM 2

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MINISTRY
PUBLIC WORKS
REPUBLIC OF SOUTH AFRICA

Department of Public Works | Central Government Offices | 266 Madiba Street | Pretoria | Contact: +27 (0)12 406 2034 | +27 (0)12 406 1224
Private Bag X91651 CAPE TOWN, 8001 | RSA 4th Floor Parliament Building | 120 Plain Street | CAPE TOWN | Tel: +27 21 458 6900 Fax: +27 21 462 4582
www.publiworks.gov.za

Advocate Madonsela
Public Protector
Pretoria

By email: khulilem@pprotect.org / stoffelf@pprotect.org

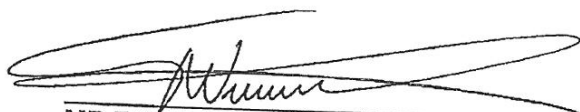
Dear Adv Madonsela

Provisional Report: Nkandla Security Upgrade at the President's Private Residence

1. I refer to the above matter and your letter dated 01 November 2013.
2. I confirm receipt of the above mentioned report and Ministers referred in your letter met to discuss your request that the departments responsible should raise any matter in the report which in our view could have an impact on or could compromise the security of the President and should therefore be omitted. Furthermore that comments should be received by your office not later than 6 November 2013.
3. As you are aware that the provisional report is voluminous (357 pages), the report was received late on Friday 01 November 2013 and that relevant Ministers would need to properly analyse the report in order to identify all security concerns. Therefore, it is our respectable view that the deadline set out in your letter is inadequate.

4. In the circumstances, I on behalf of the relevant Ministers request the Public Protector to grant an indulgence to submit the comments by not later than 15 November 2013.
5. I hope our request will receive your favourable consideration.

Yours faithfully



MR T W NXESI, MP
MINISTER OF PUBLIC WORKS
DATE: 04/11/2013



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PUBLIC PROTECTOR
SOUTH AFRICA
MOŠIRELETŠI WA BATHO • MOŠIRELETŠI WA BATHO
MUSIRHELELI WA VANHU • MUSIRHELELI WA VANHU
OPENBARE BESKERMER • UMKHUSELI WABANTU • UMKHUSELI WABANTU
HEAD OFFICE: PRETORIA
Private Bag X677, Pretoria 0001 • 175 Lunnon Street • Hillcrest Office Park, 0083
Tel: (012) 366 7000 • Fax: (012) 362 3473

5 November 2013

The Honourable Mr T T Nxesi MP
The Minister of Public Works
Private Bag X890
PRETORIA
0001

Dear Minister Nxesi

PROVISIONAL REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF IMPROPRIETY AND UNETHICAL CONDUCT RELATING TO THE INSTALLATION AND IMPLEMENTATION OF SECURITY MEASURES BY THE DEPARTMENT OF PUBLIC WORKS AT AND IN RESPECT OF THE PRIVATE RESIDENCE OF PRESIDENT J ZUMA AT NKANDLA IN THE KWAZULU-NATAL PROVINCE

1. Thank you for your letter of 4 November 2013, the contents of which have been noted.
2. As I have indicated in my letter addressed to you on 1 November 2013, the Provisional Report was provided to you and the other Ministers of the Security Cluster as a special arrangement to enable you to raise any issues relating to the security of the President that, in your view, should be masked in my Provisional Report that will be presented to the affected, implicated and interested parties for their comments, and in my final report.
3. I am of the view that such issues, if any, should be glaringly obvious to the Ministers of the Security Cluster from reading the report that should, at the most, not take more than two days.

4. Kindly note that I will not be entertaining any comments on the contents of the report that do not relate to the impact that it might have, in your view, on the security of the President at this stage. As I have indicated in my said letter, you and the other affected, implicated and interested parties will be provided with an opportunity to comment on the contents of the Provisional Report, when it is released after I have considered any issues that you might raise in respect of the President's security.
5. I am of the view that to leave the Provisional Report in the hands of the Ministers for two weeks, as you have requested, would be prejudicial to the other parties involved, as it would create unnecessary suspicion that they are being prejudiced or treated differently. I have to balance their interests with that of the interests relating to the security of the President. It will also not be in the public interest to leave the report of an independent constitutional institution in the hands of government only for an extended period of time.
6. Media reports have indicated that the African National Congress is unhappy and concerned about the special arrangement in terms of which I provided the Provisional Report to you and the other Ministers as, in its view, it is prejudicial to the President. I do not wish to exacerbate the situation and am anxious to release the Provisional Report to the President and the other parties to avoid any further speculation.
7. I am therefore not inclined to grant your request of an extension to 15 November 2013, but am willing to do so until the close of business on Friday, 8 November 2013.
8. Should I not be in receipt of your comments and that of the other Ministers on the security issues referred to above by the close of business on 8 November 2013, I will continue to grant the other affected, implicated and interested parties access to the Provisional Report as from 9 November

NCM 4

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MINISTRY
PUBLIC WORKS
REPUBLIC OF SOUTH AFRICA

Department of Public Works | Central Government Offices | 256 Madiba Street | Pretoria | Contact: +27 (0)12 406 2034 | +27 (0)12 406 1224
Private Bag X9155 | CAPE TOWN, 8001 | RSA 4th Floor Parliament Building | 120 Plain Street | CAPE TOWN | Tel: +27 21 468 6900 Fax: +27 21 462 4592
www.publicworks.gov.za

Advocate Madonsela

Public Protector

Pretoria

By e-mail: stiffellF@pprotect.org

Dear Adv Madonsela

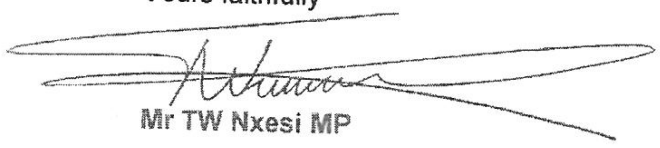
**PROVISIONAL REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF
IMPROPRIETY AND UNETHICAL CONDUCT RELATING TO THE INSTALLATION
AND IMPLEMENTATION OF SECURITY MEASURES BY THE DEPARTMENT OF
PUBLIC WORKS AT AND IN RESPECT OF THE PRIVATE RESIDENCE OF
PRESIDENT J ZUMA AT NKANDLA IN THE KWA-ZULU NATAL PROVINCE**

1. I confirm receipt of your letter dated 5 November 2013 which is a response to our letter dated 4 November 2013 in which I, on behalf of the Ministers, requested an extension of time in which to respond to the issues of security.
2. I see from your letter that you have declined our request for an extension of time and have provided us with an additional two days. I again, on behalf of the Ministers, seek in this letter an extension of time in order to properly consider the security issues raised in the provisional report.

3. I, together with the Ministers, are requesting that we be given sufficient time to deal with this provisional report. As stated by Moseneke DCJ in the Independent Newspapers case the Court held that:
 - 3.1. When weighing meticulously where the interests of justice lie, courts have strived to afford a party a reasonable opportunity to achieve its purpose in advancing its case. After all, an adequate opportunity to prepare and present one's case is a time honoured part of a litigating party's right to a fair trial. Even though we are not litigants, we are still of the view that we require a reasonable time to address the security concerns in order to advise you of issues to consider before you release your provisional report to other persons who may be implicated.
 - 3.2. Secondly, the court looked at the release of restricted materials at the interlocutory stage and stated that if released it would create an untenable rule that members of the public can question the confidentiality of information and if so released the information would render nugatory the very purpose of classifying and protecting the information for purposes of national security. We note with concern that your provisional report is not classified as "top secret" and merely classified confidential. It is our request that your provisional report, as prescribed in chapter 5 of MISS, should be classified as "top secret", until such time as our security concerns are addressed, as some of your source documents upon which you rely are classified "top secret" especially as you requested us to address the security concerns that the content of your report may have on the security of the President. In addition, on your own admission, the matters you are addressing in your provisional report are security related issues.
4. As neither I, nor the Ministers involved have given the necessary permission to declassify the documentation relied upon by you in your provisional report, we deem it necessary, to inform you, that to release your provisional report without our authorisation would in effect result in, amongst others, a contravention of section 4 of the National Key Points Act, 102 of 1980 and Section 4 of the Protection of Information Act, 84 of 1982.
5. The view is expressed that our initial request for an extension of time is not unreasonable and on closer inspection of the report and the numerous possible security issues, we now require additional time to provide you with the necessary input in order for you to release your provisional report to any other party on a provisional basis.

6. In relation to your paragraph 5 which states that the other parties would be prejudiced, I am of the view that this cannot be the case as these parties implicated and/or the interested parties would not be prejudiced as without the release of your provisional report to these persons or parties, they will not know that they are implicated or are interested parties.
7. I have to indicate that I have been advised that the scope of the task is substantially more extensive than initially envisaged when we requested an extension of time until the 15th November 2013. We may, therefore, need to approach you for a further extension should the need arises.
8. It is consequently requested that we at this stage be granted an extension in order for us to address the security concerns by not later than 15 November 2013. Until that happens, we request you should not release the provisional report to anybody else.
9. A written undertaking from yourself is requested by no later than 15h00, Thursday, 07 November 2013, indicating that you will not release the provisional report until such time that you have received our response to the security matters raised in the report. Should we not receive such an undertaking, we will assume that you intend to release the provisional report without our input.
10. We reserve our right to take the necessary legal actions to preserve the security of the state as well as part of the National Key Points.

Yours faithfully



Mr TW Nxesi MP

Minister of Public Works

7 November 2013

NEWS

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E(vil) tolls the reason for Vavi's fall?

Zwelinzima Vavi once described e-tolling as economic apartheid. I for one back him on this, do you? asks **Motheo Mtimkulu**.

LAST UPDATED: 2013-11-08, 07:18

News Opinion Business Sport Tech Motoring Lifestyle Multimedia Focus

Nkandla report impartial - Madonsela

2013-11-06 07:53

Johannesburg - Public Protector **Thuli Madonsela** assured the public on Tuesday of her impartiality and independence.

0 Pin It

"We conduct all of our investigations and, where appropriate, prepare reports without fear, favour or prejudice," her office said.

"The public protector invited all persons interested in the Nkandla investigation to await the final report and read it carefully to determine whether her office keeps its commitment."

ANC concerns

African National Congress secretary general **Gwede Mantashe** said on Monday the party was concerned by the manner in which Madonsela had handled the provisional report on Nkandla.

He said in a statement that while the ANC respected the office of the public protector and acknowledged its work, the confusion shown by Madonsela as to where the report should go worked on the psyche of the public.

It did so in a way that negatively reflected upon President **Jacob Zuma**.

Madonsela released the provisional report on the upgrade to Zuma's Nkandla homestead to limited parties on Friday.



(Picture: City Press)

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Nkandla upgrade

Public works DG accused of Ivina under oath

26

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Her office said those within the security cluster, who were handed the report, had been granted an extension to submit comments by Friday.

"This followed their request for more time, to go through the report," her office said.

"The said organs of state earlier made a special request to have access to the report before it is shared with the rest of the parties, with a view to commenting on whether or not it compromises the security of the president."

Comments

The rest of the parties, including respondents and complainants, would get the report as soon as possible thereafter.

"However, complainants and some of the respondents will only be invited [to] view the report at the public protector's offices, in the presence of members of the investigation team due to security reasons," her office said.

This would take place either in Pretoria or Cape Town.

Her office reiterated that like all other provisional reports the public protector issued, this report was confidential.

"She will only be in a position to release the report to the public after having received comments from all parties, considered them and, to an extent possible, integrated them into the report."

Nkandla has been at the centre of controversy after it emerged that the public works department had approved upgrades to the homestead costing R206m.

When questions were raised about these upgrades, a task team of the public works department was set up. It later found irregularities in the procurement process for the upgrade.

- SAPA

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"The Public Protector invited all persons interested in the Nkandla investigation to await the final report and read it carefully to determine whether her office keeps its commitment."

ANC secretary-general Gwede Mantashe had earlier expressed concern at the manner in which Madonsela had handled the provisional report on Nkandla. He said though the ANC respected the office of the public protector and acknowledged its work, the confusion shown by Madonsela as to where the report should go worked on the psyche of the public. It did so in a way that negatively reflected on President Jacob Zuma.

Madonsela released the provisional report on Nkandla to limited parties on Friday.

Her office said those in the security cluster who were handed the report had been granted an extension to submit comments by Friday.

"The said organs of state earlier made a special request to have access to the report before it is shared with the rest of the parties with a view to commenting on whether or not it compromises the security of the president."

The rest, including respondents and complainants, would get the report thereafter. "However, complainants and some of the respondents will only be invited [to] view the report at the Public Protector's offices in the presence of members of the investigation team due to security reasons," her office said.

Her office reiterated that, like all other provisional reports the public protector issued, it would be confidential.

Nkandla has been at the centre of controversy after it emerged that the public works department had approved upgrades to the homestead costing R206 million.

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