

## The relationship between the collapse of formal rural land administration and failed development initiatives in the Wild Coast

Mike Coleman and Mike Kenyon

### Abstract

*The promises of both land tenure reform and the restitution of land rights since 1994 have raised but not met the expectations of the long-term residents of the Wild Coast for change. The period from 1994 to the present is characterised by the removal of familiar systems of land tenure and administration, an official refusal to administer existing policy and legislation (both new and old), no land tenure reform, and no rural planning law. The handful of successful developments are characterised by persistent, local, small-scale, private sector business people with close community relations. In contrast major government initiatives such as the Wild Coast Spatial Development Initiative, Pondoland National Park, Dwesa-Cwebe restitution have failed. The key limitation on external investment is not land tenure arrangements, whether precarious or not, but rather the more general breakdown of governance across all three spheres. Furthermore there is an inherent contradiction between the concept of “Wild Coast” and conventional notions of “development”.*

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# **The relationship between the collapse of formal rural land administration and failed development initiatives in the Wild Coast**

**Mike Coleman and Mike Kenyon**

(for Umhlaba Consulting Group)

## **Abstract**

In the Transkei region of the Eastern Cape Province there is a long history of dispossession of indigenous land rights including and especially in coastal areas and in the name of conservation or tourist/recreational development.

The promises of both land tenure reform and the restitution of land rights since 1994 have raised local expectations of change and material improvements. There were many promises of significant tourist development and related employment opportunities as well as rental income on local land and shares in dividends from tourist enterprises.

Post-1994 saw a breakdown of familiar systems of land tenure and administration, but without any clear replacement, leaving both long term local residents and potential developers in a web of legal uncertainties, absent or at best sporadic and uneven public administration, and disputes, some headed or heading to the law courts. Post 1994 land reform laws and procedures are either only partially implemented or simply do not confront the crisis created by the collapse of land administration. This has left a confusion of legally impotent authorities such as DRDLR, provincial DRDAR, traditional leadership, SANCO, and sometimes municipalities. All consider themselves to be the lead agency but none has actual authority over land tenure or administration.

Land tenure arrangements, precarious or not, do not seem to be the key limitation on external investment, but rather one amongst many such limitations. The lack of co-ordination and alignment and general inaccessibility of all three spheres of governance in the Wild Coast is perhaps the greatest problem.

It is generally acknowledged that local land rental agreements, with or without redistributive provisions for profit sharing between the investor and local community and the provision of other local support and services, are the preferable manner to secure and safeguard business investment as well as being socially responsible. Examples of redistributive measures are the reinvestment of rental income and dividends in the provision of physical infrastructure such as crèche and school buildings, and potable water.

It may be a mistake to overestimate the ability of the Wild Coast to attract external investment (noted in official reports over the years). There may be an inherent contradiction between the concept of “Wild Coast” and conventional notions of “development”. Perhaps part of the answer lies in developing far more realistic plans and expectations that match both local

needs, respect local land rights and develop tourism modestly to ensure protection of the natural environment.

While the focus of this paper is on attempts to attract external investment into the coastal belt which has obvious tourism potential, the discussion and conclusions are of wider application not just for tourism but also across the hinterland and much of what is loosely referred to as the infamous 13% of the land surface area reserved under the 1913 and 1936 Land Acts for Black occupation.

The key recommendations are:

- Issue long term leases for business development with existing legislation and procedures;
- Minister of Rural Development and Land Reform to delegate authority;
- Incorporate the Land Use Management Guidelines of the 2005 Wild Coast SDF into the SPLUMA by laws of the coastal Local Municipalities;
- Create a co-ordinating and information agency with administrative authority; and
- Ensure ongoing communication policies, legislation and procedures to rural communities.

### **Structure of the report**

This report deals with the current situation as it has developed since 1990. It assumes knowledge of the history of the area including the particular form of governance including land administration which developed in the Transkei region of South Africa. Details of colonisation, annexation, dispossession, and the development of the form and nature of governance, land tenure and land administration in the Transkei territory is outlined in Annex 5 and Annex 6.

### **Acknowledgements**

In preparing this report, a range of interviews were conducted and transcribed or summarised, supplemented by written, email communications with further key individuals. These included five hotel/lodge owners/operators or former owner/operators, three backpacker establishment operator/owners, one self-catering lodge owner/operator, five development corporation or development programme officials, and two representatives of the Wild Coast Cottage Owners Association. Other sources are indicated in footnotes. This report does not identify interviewees by name. The authors wish to thank all those who gave us their time and valuable insights. This document represents the opinions and conclusions of the authors.

### **Annexures (available from the authors)**

Annex 1: IPILRA, Interim Procedures & related projects for Ministerial approval 1999 – 2004

Annex 2: Currently applicable land and resource legislation

Annex 3: 2005 Wild Coast SDF Land Use Management Guidelines

Annex 4: “Options and Recommendations”, extract from Eastern Cape Planning Commission Diagnostic Study on Land Administration, 2013

Annex 5: Pre 1994 Wild Coastland tenure and administration

Annex 6: Land excised from or superimposed on state trust or “communal” land

Annex 7: Some post 1994 initiatives, programmes, plans and legislation

Annex 8: How not to go about development - Mdumbi Lodge

Annex 9: Comparing Port St Johns and Coffee Bay

Annex 10: 1979 Coastal Development Control Plan

## ***Abbreviations***

AA – Administrative Area  
ADM – Amathole District Municipality  
CCA – Coastal Conservation Area  
CEO – Chief Executive Officer  
CLaRA – Communal Land Rights Act No.11 of 2004  
CoGTA – provincial Department of Co-operative Governance & Traditional Affairs, previously DLGTA  
CPA – Communal Property Association  
CSIR – Council for Scientific & Industrial Research  
DEAET – provincial Department of Economic Affairs, Environment & Tourism  
DEAT – national Department of Environmental Affairs and Tourism  
DEDEAT – provincial Department of Economic Development, Environmental Affairs & Tourism, previously DEAET  
DLA – national Department of Land Affairs, 1994-2009  
DLGTA – provincial Department of Local Government & Traditional Affairs  
DMR – Department of Mineral Resources  
DRDLR – national Department of Rural Development & Land Reform, previously DLA  
DRDAR – provincial Department of Rural Development & Agrarian Reform, previously Department of Agriculture  
EC – Eastern Cape  
ECDC – EC Development Corporation  
Ecsecc – EC Socio-Economic Consultative Council  
ECPTA – Eastern Cape Parks and Tourism Agency  
EU – European Union  
GTAC – Government Technical Advice Centre (of the national Treasury)  
IDP – Integrated Development Plan  
IDZ – Industrial Development Zones  
IPLRA – Interim Protection of Informal Land Right Act No.31 of 1996  
LCC – Land Claims Commission  
MPA – Marine Protected Area  
PICC – Presidential Infrastructure Co-ordinating Commission  
PoA – Power of Attorney  
PTO – Permission To Occupy  
SDF – Spatial Development Framework  
SDI – Spatial Development Initiative  
SEZ – Special Economic Zone  
SPLUMA – Spatial Planning & Land Use Management Act No.16 of 2013  
SG – Surveyor-General  
SIP – Strategic Infrastructure Project  
TA / TC – Traditional Authority / Traditional Council  
TDC – Transkei Development Corporation  
TLGFA – Traditional Leadership and Governance Framework Act No.41 of 2003  
Tracor – Transkei Agricultural Corporation  
WC – Wild Coast

## Background

The British Crown annexed various districts, including coastal districts, which came to comprise Transkei territory after the 19<sup>th</sup> century wars of dispossession. Most of the coastal areas were proclaimed demarcated Crown Forests and local communities were systematically excluded from the forest and coastal strip areas extending inland from the high water mark.

Prior to the re-incorporation of the Transkei bantustan state, land tenure, land administration and land use had significantly altered the spatial and legal status of land ownership and human settlement along the Wild Coast. Starting at the beginning of the century, by the early 1990s Permission to Occupy (PTO) certificates had been lawfully issued to whites for 350 cottage sites along the entire coast and to 11 boarding houses or hotels. PTOs for cottage sites were effectively three year renewable leases and nine year renewable leases for boarding house sites. PTOs in the demarcated forests and coastal zone were imposed over and excluded the pre-existing land rights of local populations and communities.

The issues of coastal conservation and development in the Wild Coast are not new. Nor are the numerous coastal development plans and initiatives new. The first significant development plan for the Wild Coast, by Guy Nicholson, titled *Coastal Development Control Plan*, was prepared in 1979 (Annex 10). It included the concept of nodal development which has re-appeared in most, if not all subsequent coastal development plans, including the 1982 *Coastal Development Control Plan* and the 1993 *Transkei Coastal Development Plan*, as well as post 1994 successive *Guideline Plans for Towns*.<sup>1</sup> The 1983 plan was an update to the 1979 plan which was not yet adopted by the time of reincorporation of the Transkei in 1994.

In 1992 the Transkei military government issued *Decree No.9 (Environmental Conservation)* which was intended to consolidate and amend existing legislation on the subject for the entire territory. Section 39 also established a Coastal Conservation Area (CCA) extending 1 000 m inland from the high water mark along the entire Transkei Coast.<sup>2</sup>

This Decree has not been repealed. In practice it remains the legislation determining development decisions on the Wild Coast. It is administered by the Provincial Department of Economic Development, Environment and Tourism (DEDEAT) and is central to much of what has happened and not happened on the Wild Coast since, including the demolition of illegal structures in the CCA.<sup>3</sup>

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<sup>1</sup> Thembele Kepe, 2001, *Waking up from the dream: The pitfalls of 'fast-track' development on the Wild Coast of South Africa*, Plaas Research Report No.8 pages 81, 83.

<sup>2</sup> The CCA did not apply to municipal land, Port St Johns being the only such coastal area, existing lawfully occupied sites including resorts under applicable proclamations, as well as any private land and any land under leasehold.

<sup>3</sup> This appears to be distinct from the programme of the national Department of Public Works (NDPW) "to recover 'lost' state property and illegally occupied land" in areas outside of the CCA and mainly outside of the former Transkei (<http://www.dispatchlive.co.za/bring-back-our-land/> 2016/06/26).

## Perspective

While the focus of this paper is on coastal development as per the Terms of Reference for this paper, restated in the title of this paper, we believe the following in regard to land administration, land tenure and development across the wider Transkei and former bantustan regions of the Eastern Cape Province in particular:

- (1) Land rental markets have emerged in the past in this region irrespective of the form of tenure (eg freehold, quitrent or PTO) but where there has been effective public land administration which has been perceived to guarantee whatever form and content of land rights.
- (2) Land titling will likely lead to the loss of people's only real/fixed asset through debt, speculation etc. There are numerous current examples to support this, especially in the coastal zone. The World Bank long advocated land titling but since the 1990s has abandoned such an approach as both ineffective and causing unintended social costs arising from landlessness.

In a period when there is growing concern about capture by both urban and rural elites of high potential natural resources including land and minerals, any system that will facilitate or permit outright alienation of land rights is to risk the loss of land rights by those citizens who are the most economically vulnerable and can least afford to lose them yet who may stand to benefit from rental arrangements.

Increasing levels of unemployment and a bleak economic outlook suggest a need for the most vulnerable citizens and households to maintain a wide range of social and economic options, one of them being the security of a place, even if located in what may or may not be a marginalised rural area.

A companion paper by Professor Michael Aliber and colleagues<sup>4</sup> demonstrates that some of the areas characterised as marginal upon a closer look contain elements of dynamism. Simultaneously census data down to municipal ward level indicates a clear shift towards areas of perceived greater economic opportunity and therefore urbanisation in many instances. While this may not lead to the abandonment of land rights in rural areas by absent or urbanised households (as clearly indicated in Paper 3), in the longer term this must encourage more intensive and/or extensive land use by those remaining in these rural areas.

There is some historical evidence from the period of effective public land administration of quitrent land tenure that such administration facilitated the emergence of local land rental markets. The absence of public land administration appears to correlate with the absence of any such land rental markets. Therefore in the context of a population drift away from rural areas, especially more isolated and remote areas, the re-establishment of public land administration may lead to the re-emergence of land rental markets, whether primarily for grazing, cultivation, residence or any other purpose.

Rather than envisaging an either/or relationship between public land administration and leasehold on the one hand and fully alienable land rights on the other, it is possible to imagine

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<sup>4</sup> M Aliber, M Maswana, N Nikelo, B Mbantsa and L Bank, *Economic Development in South Africa's Former Homelands and Rural-Urban Linkages*

a continuum over time with economic growth and development to a point where fully alienable land rights become a socially acceptable reality. However that time is not now for rural areas in the former bantustan and other, smaller trust land areas.

The land administration which persisted until the 1980s was tied to local revenue collection, i.e. taxation, and administered by clerks in the office of the local magistrate (Ciskei) or land commissioner in the office of the magistrate (Transkei). Records of land rights were remarkably up to date as compared to deeds registry records for comparable freehold and quitrent properties. It was an inexpensive and local administrative system. A slightly more complex system would be required going forward. Scaled up for population growth over the past 40 years, the local tax revenue generated could be equivalent to approximately 50% of current Provincial own revenue.<sup>5</sup>

Finally we do not consider long leases as the only land tenure solution but as the only one available under post 1994 legislation and since both national and provincial government decline to administer Proclamation 26 of 1936<sup>6</sup> which is still on the statute books and by interpreting and applying such segregation era legislation in line with the Constitution.

## **1. Post 1994 initiatives, programmes, plans and legislation**

At a national level the national Spatial Development Initiatives (SDIs) were one of the first which is relevant to this paper. However it has been followed by a number of other national initiatives, programmes and plans relevant to the Wild Coast. An incomplete list of these is attached in Annex 7. What is apparent is that since 1994 the new democratic government, with the financial and specialist assistance from donors such as the EU, has spent billions on planning and re-planning the Wild Coast, considerable ongoing research has been undertaken, but little has happened as a result of these programmes and projects. There are seven (7) major national interventions and a further seven (7) provincial interventions that span the period, many from 2006 to the present. At least 21 reports and plans of varying size and subject matter have been produced, many of them by consultants employed by government to try to make sense of the Wild Coast natural, cultural and socio-economic environment.

With all of the above, all of it relevant to the Wild Coast and much specifically about the Wild Coast, one would have to be forgiven for hoping that the Wild Coast, more especially the long term inhabitants of the area, were doing well. It appears, however, that *while there has been a proliferation of planning, there has been an inverse collapse of rural governance.*

Certain of these plans have been particularly important. The Wild Coast therefore poses very significant challenges, both environmentally and developmentally. In response to these challenges Government has undertaken three major previous planning and development programmes for the Wild Coast, i.e. the Wild Coast Spatial Development Initiative, the European Union Wild Coast Support Programme and the GEF funded Wild Coast Integrated Conservation and Development Programme.

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<sup>5</sup> There is also a long history in the Transkei of local taxes being used for local development. Unfortunately this became corrupted with the advent of tribal authorities from the 1950s and was totally discredited by 1990.

<sup>6</sup> *Location Regulations: Unsurveyed Districts: Transkeian Territories*

## 2. Wild Coast Spatial Development Initiative

Until the current Integrated Wild Coast Development Programme (IWCDP), the WCSDI was the most important of the post 1994 programmes in the Wild Coast area. Unlike the ISRDP and later CRDP, it specifically targeted the coastal area of the Transkei. The principal proposal was: “a proposed coastal road was to be the anchor investment in the SDI. ... It was found that concessioning of a toll road in the area would not be viable.” Almost 20 years later, neither the N2 toll road nor the coastal road are yet realities, although the first is now approved and being put in place currently. Some of the key reasons for the failure of these programmes is that at an institutional level the WCSDI failed to operationalise an agreed agency or revised implementing agency for the WCSDI in order to harmonise the different departmental procedures and approval processes.

State programmes in general and the WCSDI in particular attempted to address and resolve a number of complex issues simultaneously, including local economic development, the consolidation if not expansion of conservation areas and initiatives, and land reform including the restitution of land rights and land tenure reform. Furthermore the political and institutional context within which this was all to take place was fluid. This included the resurgence of traditional leaders and the restructuring of the municipal sphere of the state.

The Wild Coast was intended to be one of eleven Spatial Development Initiatives (SDIs) that would be created to draw private sector investment into new ‘development nodes and corridors’ in areas of ‘under-utilised economic potential’. With five coastal nature reserves and demarcated coastal forests, ecotourism was seen as having much potential. However this involved an assumption that local villagers would make the connection between the management of protected areas and long term jobs associated with ecotourism and that they would do so despite grievances over land claims.

The WCSDI focussed on tourism development and forestry through joint ventures, targeting four anchor areas or nodes in previous parlance: Mkambati, Port St Johns, Coffee Bay and Dwesa/Cwebe. It also attempted to secure investors for the liquidated parastatal tea estates at Magwa and Majola as well as the liquidated Lambasi Farms adjacent to the Magwa tea estates. The Agriculture Task Team report brought an unwelcome reality check to these grandiose claims, identifying the lower Mzimvubu and Mngazi/Mngazana as having potential for sub-tropical crops, but ruling out tea or sugar expansion at the estates at Magwa and Majola (tea) and North Pondoland (sugar).

When the SDIs were first introduced it was envisaged that rural people from the disadvantage areas would become the primary beneficiaries, through employment, partnerships with external investors, income from leasing their land and improvements in local and regional infrastructure.<sup>7</sup> A crucial question was to whom would the benefits of local investments accrue, and in particular land rental. Could this accrue lawfully to the holders of land rights protected by the IPILRA, or would they accrue to the fiscus? The Chief State Law Advisor concluded in October 1999 that such income and benefits lawfully accrued to the holder of the informal rights and not to the state.<sup>8</sup> This opened the way for lease agreements between

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<sup>7</sup> Kepe 2001: 5

<sup>8</sup> Chief State Law Advisor to Director-General, DLA, 6/10/1999



developers/operators as lessee and the Minister as nominal owner together with the duly appointed representative of the local land right holders and beneficiaries as lessors.

Conflicts have arisen among potential beneficiaries in certain localities, deeply affecting the implementation of the SDI. This is not to say that all conflicts in those areas are related to land issues. A host of other issues including political affiliations are responsible for SDI-related conflicts. What has become clear is that conflict management within the SDI is crucial if any success is to be achieved.<sup>9</sup> *The drivers of the SDI did not anticipate the seriousness of long-standing grievances and conflicts over land and land rights and their potential to impact negatively, even prohibitively on the SDI process.*

Overall, the WCSDI did not achieve very much:

“In spite of efforts to involve local people, the essentially ‘top-down’ orientation of the SDI approach in general – exacerbated by the ‘fast-track’ approach, inadequate funding and the retreat of the bona fide foreign investors – had led to disappointing outcomes in most cases. The Wild Coast SDI has had a particularly troubled career ... By 2000 it was being rescued by the European Community (EU) with a reported R80 million of funding for community projects, and its administrators were desperately trying to show progress. By mid-2000 they were ‘clutching at straws’, including an offer from a ‘consortium’ that did not exist which was offered by a dubious consultant. Before it was properly checked it was announced in the press. Projects worth R200 million at Dwesa-Cwebe and R100 million at Silaka, near Port St Johns were announced, but they never materialised.”<sup>10</sup>

### 3. Further SDI and related activities and the European Union

The European Union (EU) funded a programme running over four years, starting in March 2000. According to a mid-term review of the programme in June 2003:

“The Programme was to promote community business skills, resource management and environmental conservation, policy / institutional support, marketing and promotion, public relations and development of a national programme. It was to be implemented by three NGOs (Pondocrop, Triple Trust Organisation and World Wide Fund for Nature) that were active in the Wild Coast. ... In collaboration with the established private sector, 300 viable community projects were to be developed in five anchor areas over the four-year life of the Programme. ...”<sup>11</sup>

The review lamented that the programme was limited to the horse and hiking trail, that only 45 permanent and 61 part time jobs were created at a cost of R 284 835 each, that the programme was not sufficiently integrated into provincial and local government systems (the Project Management Unit was established outside of the EC in KZN and then only six months into the programme), and that the programme was either “grossly over-capitalised” or way behind schedule with 54% expenditure after 36 of 48 months.

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<sup>9</sup> Kepe 2001: 38

<sup>10</sup> Robin Palmer Derick Fay, Herman Timmermans and Christo Fabricius, 2002, Chapter 12, “A Development Vision for Dwesa-Cwebe” in Robin Palmer, Herman Timmermans & Derick Fay (editors), *From Conflict to Negotiation - Nature-based development on the South African Wild Coast*, HSRC Press, page 273.

<sup>11</sup> Ecodes Consortium, June 2003, *Mid-Term Review Final Report: Wild Coast SDI Pilot Programme*, prepared for the European Commission, pages 13 and 14.

In addition, it is in fact likely that there were major local community dynamics involved in the demise of these EU funded projects. The northern Mpondoland coast has been wracked by dissent over both the proposed N2 toll road through the area and the associated attempts to initiate the mining of coastal dunes for heavy metals at Xolobeni. In March 2016 the leader of the group opposed to mining was assassinated outside his home in the area.

#### **4. Wild Coast Conservation and Sustainable Development Project**

This further substantial project was established in 2005 for an 18 month period. The aim was to complement sustainable development initiatives by developing a strategy for conservation and land use management at regional scale to protect globally important biodiversity. The project was managed by the Wilderness Foundation and the World Wildlife Fund, with financial support from DBSA, ECPB, DEDEAT and UNDP. It achieved or produced the following:

- Strategic Environmental Assessment,
- Reviewed Wild Coast Tourism Development Policy,
- Assessed infrastructure and services needs,
- Cost-benefit analysis of Xolobeni Mining,
- Redefined development nodes and their outer boundaries, and
- The above formed the basis for the Wild Coast SDF

*The SDF included detailed land use, transport and movement systems, and Land Use Management Guidelines. Only two of the six WC Local Municipalities made use of and incorporate this material into their SDFs.*

*This project produced a major and coherent source of updated WC planning documentation. There should be no further spatial planning required for WC for the foreseeable future.*

These guidelines are contained in Annex 3.

#### **5. Restitution claims and settlements**

The issue of restitution claims and conservation was a national issue, leading to the preparation of a draft Cabinet Memorandum by DEAT in 2001 and an approved Cabinet Memorandum No.5 of 2002. The draft memorandum included the paragraph:

“Land within a protected area can be owned by claimants without physical occupation, but with arrangements for compensatory remuneration and benefits set out in the land claim settlement agreement. Effective conservation can be obtained through partnerships between the owner and manager. Restoration through the transfer of title is feasible with registered notarial deed restrictions. Lease agreements for protected areas should allow for undisturbed management of the area within a context of holistic management and financial sustainability.”<sup>12</sup>

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<sup>12</sup> Paragraph 3. The document stated that important precedents had been established in the settlements with the Maluleke community in the Pafuri region of the Kruger National Park and the Mbila community in the Greater St Lucia Wetland Park (para 4.1).

On 2 May 2007, the Minister of for Agriculture and Land Affairs and the Minister for Environmental Affairs and Tourism approved and signed an inter-ministerial Memorandum of Agreement (MOA) on land claims in protected areas, which included a restitution process and an operational protocol to be followed for the settlement of land claims against protected areas. This agreement gave effect to the cabinet decision that it is feasible to restore land that has been proclaimed as protected areas, without physical occupation by restitution beneficiaries.<sup>13</sup>

*Most if not all claims to rural land in the Wild Coast involve the legacies of conservation in some form, exclusion from such conservation areas, betterment and tribal authorities.*

Underlying many land claims is the claim that land was given away by unelected and unrepresentative tribal authorities and not by the common people who were the ones who once held and subsequently lost land rights.

By the end of 1998 over 65 land claims in the Wild Coast area had been lodged with the Land Claims Commission (LCC) for the EC. Five are discussed below.

Thembele Kepe argued that the parallel processing of restitution claims with the roll-out of the SDI increased tensions between government, local people and claimants and potential investors. The slow progress of the Wild Coast SDI became a problem because many of these communities still maintain rights to the land in question, but had agreed not to lodge claims because of promises made and the hope of alternative wealth through the SDI.<sup>14</sup> The re-opening of the land claims process in 2015 has seen a number of new and conflicting claims lodged by communities that felt they had been excluded or misled.

### ***Dwesa-Cwebe Restitution Claim***

The Dwesa-Cwebe land claim was settled (on paper) within five years. It was the second successful land claim on a protected area in SA and the first in the EC. But 15 years later title to the land has not been transferred nor the Settlement Agreement implemented. Settlement conditions included that the land be reserved in perpetuity for conservation and that the provincial conservation authority would manage the reserve for another 21 years. The settlement also promised the immediate transfer of the reserve. Specific arrangements covered the Haven Hotel within Cwebe and the cottages within the reserve.

Municipal restructuring and demarcation in 1999-2000 brought both Dwesa and Cwebe under the Mbashe Local Municipality and Amathole District Municipality (ADM). The financial component of the settlement was over R14 million, which was to be managed by ADM rather than the Dwesa-Cwebe Land Trust.

The way seemed clear for the tourism-led development that had been envisaged in the WCSDI. "Unfortunately, the years since the settlement have been inconclusive for the communities of Dwesa-Cwebe as the Trust and local and regional authorities have vied with

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<sup>13</sup> DEAT, circa 2007, *National Co-Management Framework*, paragraph 2.4

<sup>14</sup> Kepe 2001: 11

one another for power.”<sup>15</sup> Five years since this passage was published, there still appears to be little if any progress.

The upgrading and tarring of the road from Dutywa and the N2 to Willowvale and improvement of local access roads near the Dwesa reserve as well as the extension of water reticulation were reported in 2002. A cultural centre near the gate of the Dwesa reserve was completed and DEAET was busy upgrading the only tourist accommodation facilities in the reserve.<sup>16</sup> These interventions were not undertaken as part of the restitution process but rather as local Municipal upgrades and improvements.

As of 2004 the survey of the Communal Property Association (CPA) boundaries inland of Dwesa and Cwebe was not finalised with the Surveyor-General, making any registration of land in the Deeds Registry in Mthatha and the transfer of such land impossible. As of 2016 the land had still not been transferred. The ADM had also delayed the transfer of an operating budget to the Land Trust. ADM commissioned a development plan in 2003 but little has been implemented. It is now being reviewed and rewritten in 2016.

### ***Mkambati Restitution Claim***

The Khanyayo people began preparing a land claim when the Thaweni Tribal Authority argued that all six Administrative Areas under the Tribal Authority should benefit from the SDI and related processes, eventually leading to conflict between the chief and Khonyayo headman playing out in various courts. An unsuccessful attempt was made to bypass both groups by focussing on the 50 or so households and their descendants who were actually removed from the land.<sup>17</sup>

In 2012 Sisitka et al stated that:

“Given the continuing challenges, the lack of benefits, and the clear frustrations of the communities, the last 10 years of the current agreements are likely to prove very challenging. If there is no improvement in the situation within the next few years, there is a good possibility that the communities will return to their earlier strategy of direct activism, and simply ‘take back our reserve’. ECPTA needs to rally all their partners, especially the DRDLR in terms of securing the title deeds, and work very hard to make sure this does not happen. For the Mkhambathi reserve manager the situation at Dwesa-Cwebe is so bad that: ‘They should just go back to the beginning and start again.’” (2012: 67)

### ***Hluleka Nature Reserve Restitution Claim***

Investigations in 2012 revealed ongoing conflicts between Chief Gwadiso and the land claimants regarding legitimacy and representation. The Eastern Cape Parks and Tourism Agency (ECPTA) now consults with the Chief rather than the CPA for decision making (Sisitka 2012: 46).

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<sup>15</sup> Robin Palmer & Nick Hamer, 2011, “Transkei’s Wild Coast: Development and Frustration at Dwesa-Cwebe Reserve”, in Greg Ruiters (editor), *The Fate of the Eastern Cape: History, Politics and Social Theory*, UKZN Press, page 289.

<sup>16</sup> Palmer et al 2002: 274

<sup>17</sup> Kepe 2001: 67-8, 72

### ***Mount Thesiger and Silaka, Port St Johns***

Any of a number of case studies could be used to illustrate the complexity and long history of disputed rights to benefit from local developments. Such other cases would include Coffee Bay, Magwa and Mkambati. Port St Johns has been selected for further focussed activity under the current IWCDP, and so this claim may still be very relevant.

The Caguba Administrative Area (AA) lodged a land claim to the Mount Thesiger Forest Reserve, erf 646, Port St Johns.<sup>18</sup> The residents of the Sicambeni area within the Caguba AA lodged a claim to part (?) of the Silaka nature reserve, some 400 Ha in extent. Sicambeni is about 15 km from Port St Johns and 2 km inland from the coast. While the people of Sicambeni are fully integrated into Caguba Administrative Area, they maintain that they were the ones who lost grazing land when Silaka Nature Reserve was established.<sup>19</sup> They disown any decision of any chief or headmen to have given the land over for the nature reserve which may have been as recently as 1981. The headman of Caguba took control of the land claim process, further deepening resentments.

By 1998 the SDI feared that the land claims process would delay implementation of some SDI projects in the area and requested the Land Claims Commission (LCC) and DLA to fast-track the claim. This involved an attempt to deal with the land claim not as a restitution claim but as a land tenure reform test case. DLA and the LCC dealt with Caguba rather than Sicambeni. It was only some time later that Sicambeni learnt that their land claim for grazing rights lost to Silaka nature reserve were put aside for an unsuccessful land tenure reform test case.

Divisions within Caguba between the traditional leadership and Sanco may have resulted in the LCC approaching the Sicambeni claimants directly in 2000. While the dynamics between Caguba and Sicambeni were playing out, a further conflict arose between Sicambeni and Vukandlule, also within Caguba AA, around sand mining and which village should benefit from the income.

As some support for an argument that the land claims process could have been handled a whole lot better, the Sicambeni residents had made peace with the loss of a much smaller piece of land to the now famous resort, Umngazi River Bungalows. While the site of the resort was initially a trading site in the late 19<sup>th</sup> century and therefore not technically within the time period to permit a successful land claim,<sup>20</sup> the subsequent development into a world class resort was undertaken by the son of long term residents of Mpondoland who were sensitive to local perceptions and protocols.

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<sup>18</sup> This reference from Kepe may be incorrect. Information sourced from the Mthatha Deeds Registry in November 1996 and April 1997 recorded erf 646 as being registered in the name of a private trust and in extent some 8.5Ha. Erven 577 and 583 were then recorded as "Forest Reserve" and erf 734 as "Unregistered forest reserve".

<sup>19</sup> Kepe 2001: 49-50, for this and the following quotes in this sub-section.

<sup>20</sup> Section 26(7) of *The Constitution of the Republic of South Africa, Act No.108 of 1996*, states: "A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress."

### ***Magwa (& Majola) Tea Estates Land Restitution Claims***

The bantustan parastatal agricultural and irrigation schemes including Magwa Tea Corporation have been attempts to introduce intensive agriculture in the form of big projects. There are land claims to the entire tea estate area. Magwa has a long history of community and labour conflict, poor management and bankruptcy threats that have complicated all attempts to make it a viable and sustainable enterprise. The many role players and stakeholders involved in Magwa and Majola mean that land restitution, which in itself is a complex process, is stymied. A brief history outlines some of the major endemic problems afflicting these areas.

The paramount chief of eastern Mpondoland, Botha Sigcawu, later state president of the Transkei bantustan, and his councillors at Qawukeni were persuaded of the merits of establishing a commercial agricultural venture in the area as an alternative to migrancy to the sugar-cane fields of then Natal. In the wake of the vicious repression of the Mpondo revolt and with payment of R20 compensation per hut for relocation out of the area, the settled users relocated into surrounding areas. This provides the basis for present and ongoing land claims to the entire area.

The first planting of tea at Magwa took place on 500 ha in 1963, later expanding to 1 750 ha. "In the 1960s and 1970s, management and labour relations were at times so poor that they jeopardised the future of the tea enterprise. In 1972 it appeared the Transkei budget was being severely drained by the unprofitable tea enterprise and workers were stealing so much tea (sold to dealers in the nearby towns) that the officially appointed marketers threatened to withdraw. Mismanagement continued in to the 1990s and millions were lost to corruption ... and loss of productivity, partly caused by labour disputes ..." <sup>21</sup>

Working conditions on the estate improved dramatically in the late 1980s and early 1990s and Magwa employees became some of the highest paid workers on tea estates in southern Africa, further threatening profitability. Until 1997, Magwa Tea Corporation, continued to be heavily subsidised by the provincial government of the Eastern Cape Province. Magwa Tea was put into liquidation by the EC provincial government in July 1997, threatening some 2 000 permanent and seasonal jobs in the Lusikisiki area.

The Minister of Land Affairs and DLA negotiated with the liquidators and the major debtor, the Public Investment Corporation, to write off some debts and purchase the assets including the improvements on the tea estates in the name of an employee trust. A land owning entity representative of former land rights holders was to be established to receive a land rental of R120 000 per annum and 30% of profits. In 1999 DLA expended some R11m in the form of grant finance in the names of the individual employees for this purchase and then handed the process over to the then EC provincial Department of Agriculture.

The SDI became interested in the business potential of Magwa and advertised an invitation to investors to invest in Magwa and related business opportunities on the adjacent Lambasi farms. Further bailouts occurred from various agencies within the province and attempts to

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<sup>21</sup> Thembele Kepe, 2005, "Magwa Tea Venture in South Africa: Politics, Land and Economics", *Social Dynamics*, page 268.

secure external investors continued to fail. According to the *Daily Dispatch* on 3/12/2015, the EC DEDEAT was about to pay out a further R17m for Magwa and Majola tea estates. “More than R51m was needed to complete the bailout.” The headline to the story suggested that the EC Treasury had paid out R300m for the same projects over the past decade.

***Conclusion: why has restitution been so complicated and protracted?***

The restitution programme was the flagship land reform programme and the *Restitution of Land Rights Act No.22 of 1994* was one of the earliest pieces of land reform legislation. The restitution programme has been criticised on a number of grounds.

Land claims in the Wild Coast needed to be dealt with by skilled officials acting consistently with a variety of different interest groups with different expectations and skills. Many claims involve real or potential competing interest groups. Unravelling the detailed history of these claims requires a high level of skill. Navigating the competing interests and forging a solution acceptable to such competing interests requires skilled negotiators and effective communication.<sup>22</sup>

The staff of the various Land Claims Commissions may by now be developing some of these necessary skills. But in the late 1990s when the initial stages of these claims required the most sensitive attention and highest skill, such expertise was not yet developed. The lack of involvement of the former staff involved in rural land administration was with hindsight a serious mistake and missed opportunity. Some of the criticism of the restitution programme is misplaced and might instead be directed at the very limited land tenure programme as well as confused interactions between these two programmes as well as with the competing priorities of the SDI.

The restitution programme and the tenure programme assumed that the establishment of community land owning trusts and CPAs would be a simple process. Instead this often exacerbated and brought latent conflicts out into the open. The creation of trusts and CPAs also created expectations of a land governance role in competition with both municipalities and the expectations and demands of traditional leaders.

It is also significant that considerable effort and perhaps far greater expertise has been brought to bear on further restitution cases in the Wild Coast, in particular the claim over land acquired by the liquidated parastatal North Pondoland Sugar, decided by the Land Claims Court in 2010,<sup>23</sup> as well as the claim over the land on which the Wild Coast Sun resort is situated at Mzamba, settled in 2014. Both these claims were settled with the involvement of highly skilled and experienced researchers as well as legal expertise in land and restitution matters.

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<sup>22</sup> For an assessment which concentrates on the issue of communication, see CIETafrica, 2001, *The limits of investment-led development: Impact assessment of the Wild Coast SDI*.

<sup>23</sup> Case Number: LCC41/03

## 6. Pondoland National Park

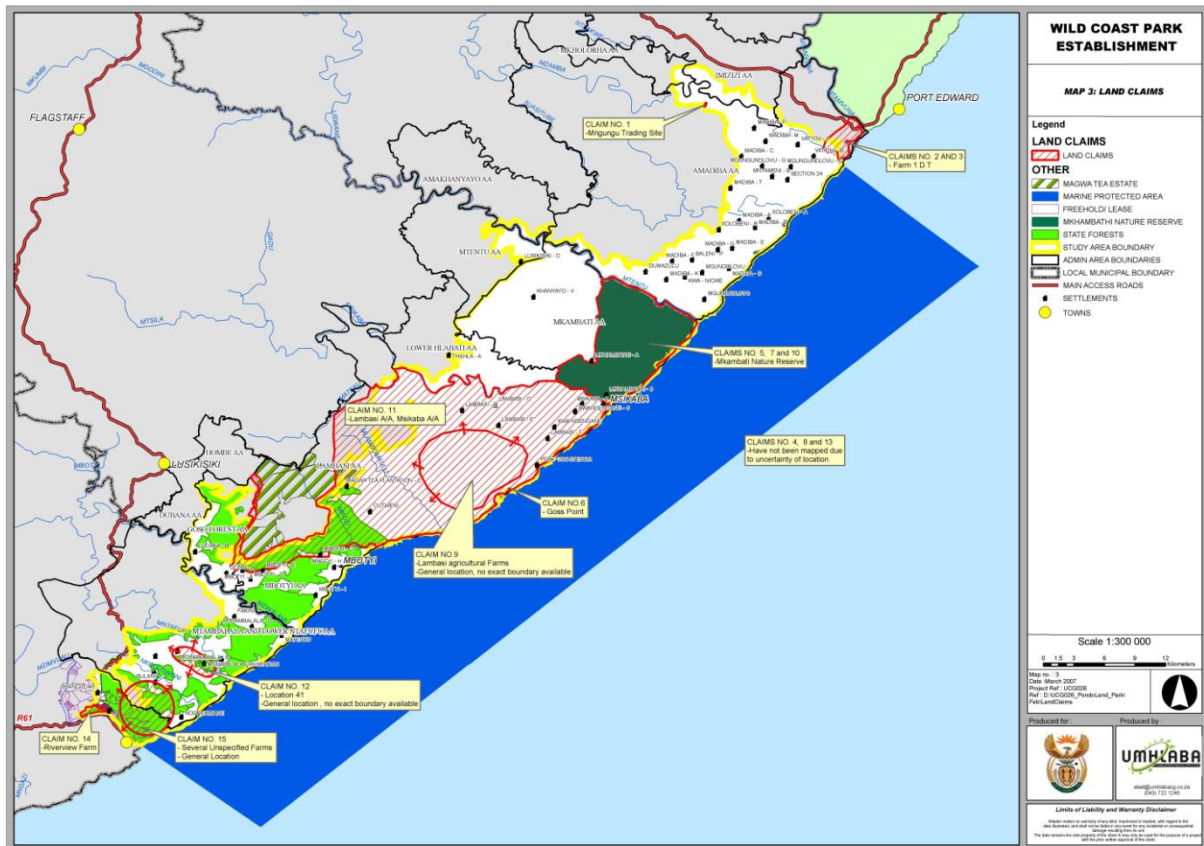
As if to complicate matters further, in June 2000 the Minister of Environmental Affairs and Tourism announced a proposal to establish the Mpondoland National Park as an SDI anchor project. At the opening of Parliament in 2001 the President repeated the intention.

The first serious plans for a Pondoland Park were in the 1990s in response to the identification and classification of the Pondoland Centre of Endemism, following work on the Transkei indigenous forests and coastal valleys by scientists such as Keith Cooper, and the international obligations of the SA government post 1994.

The following problems plagued this proposal:

1. There was little if any prior consultation with people who would have been directly affected by the creation of such a park, the long term residents of the area.
2. The EC provincial government and provincial DEAET in particular, felt sidelined by their national counterpart, DEAT.
3. The roles of the then EC Parks Board, national DEAT, SANPARKS and EC DEDEAT were never clarified. There were both national and provincial teams set to work on the project.
4. The concept of the park kept changing in terms of International Union for Conservation of Nature (IUCN) criteria. Finally it was proposed as a biosphere reserve to get around land tenure issue, yet including both terrestrial and marine areas.
5. The establishment of the Park could not proceed without the active support of the Traditional Authorities who had a justified scepticism and cynicism over any proposed conservation measures due to the long history of weak consultation with traditional leaders over natural resource management interventions in the region.
6. The process of establishing a national Park within the context of a number of failed government and funder programs such as the Wild Coast SDI and the EU program consequently having a low credibility with local institutions and communities.
7. A number of other development or land use proposals, including titanium mining, the N2 toll road, agricultural schemes, and nodal cottage developments contradictory to the national park proposal.
8. Poor presentation of the Park planning domain and lack of a clear phased implementation process led to confusion, fear and feelings of disempowerment in local communities. Much of the opposition to the proposed Park is a result of poor communication.
9. Land tenure in the planning domain is complex and multi-layered.
10. By the time the following map was prepared in 2007, the number of recognised restitution claims in the area of the proposed park had climbed to 15, each representing another potential bottleneck.





The end result of these multi-layered and conflicting problems led to the eventual abandonment of the Pondoland National Park proposal by the national Department of Environmental Affairs and Tourism.

## 7. Post 1990 and the collapse of land administration

Prior to the mid 1990s governance was concentrated and co-ordinated by magistrates and their staff including land commissioners at magisterial district level. This has been replaced by wall to wall municipalities and a highly decentralised and fragmented system of three tiers of governance.

Prior to 1994 and later municipal restructuring, local residents had a reasonable idea that the range of government services were at least accessible and comprehensible at magisterial level. In some ways the highly centralised system of bantustan governance was much simpler. “National” government was no further away than Mthatha and in any event key functions such as land administration had a physical presence in all magisterial district centres. This is no longer the case. In 1996 the national Department of Justice determined that magistrates’ functions were to be purely judicial and no longer administrative. The removal of the land administration function from central oversight within the district magistrates’ offices left a vacuum of land administration.

While the function and staff were removed, the laws were not amended, repealed nor properly delegated, and the function was not properly located elsewhere. Registers, files and maps were neglected or lost. District agricultural officials tried to keep the system ticking but

with no support. Most staff previously involved in land administration was transferred to other departments and became supernumerary.

To date there has still not been effective tenure reform or the re-establishment of land administration, despite the imperative in section 25(6) of the Constitution:

“A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.”

While Section 25(6) does not say anything directly about land administration, the collapse of land administration can and does increase the insecurity of tenure in contested areas. Furthermore Section 33 of the Constitution guarantees the right of citizens to just administrative action. Implicit is the right to public administration itself.

### ***Permissions to Occupy (PTOs)***

No lawfully valid PTOs have been issued since 1994<sup>24</sup> because the authority to administer the PTO proclamations has not been delegated by the national Minister to any officials or to the provincial government. In practice local agriculture officials continued to issue PTOs until September 2012. The status of these documents is unresolved. In 2012 the Provincial Department of Rural Development and Agrarian Reform (DRDAR), previously the Department of Agriculture, was instructed by the national office of DRDLR in Pretoria to refrain from land administration in terms of the old PTO proclamations.

In place of 28 district land administration offices in each magisterial district in the Transkei, there is now one DRDLR office in Mthatha to serve the whole region. It does not have the necessary delegated authority to administer the PTO regulations, nor could it possibly provide such an administration across the former Transkei territory from Mthatha.

### ***Post 1994 Land Reform Laws and Procedures***

Post 1994 land reform laws and procedures are either only partially implemented or simply do not confront the crisis created by the collapse of land administration. This has left a confusion of legally impotent authorities such as DRDLR, provincial DRDAR, traditional leadership, SANCO, and sometimes municipalities. All consider themselves to be the lead agency but none has actual authority over land tenure or administration.

In 1996 a WCSDI agricultural task team noted the following constraints to development in the Wild Coast area:

- Lack of policy on land tenure,
- Powers not delegated,
- Considerable tensions between TAs, councils, ANC, SANCO, Communities, and
- Illegal site demarcation

These same constraints all still apply 20 years later.

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<sup>24</sup> For example in coastal districts in terms of Proclamation 26 of 1936.

How did this crisis happen? Land Administration in Transkei became less efficient in the late 1980s after a succession of military coups and the political re-alignment of the Transkei regime with the liberation movements. An undercurrent within the bureaucratic culture, especially prevalent in Mthatha, suggested that inefficiency and underperformance amounted to political resistance. After his release in 1990 Mandela's statements encouraged people to re-locate informally and without regard to formal measures. This included both peri-urban land invasions and a return to pre-betterment sites. Opportunists, mainly from outside the Transkei, built illegal cottages on the Wild Coast without effective government response. Post 1994 government re-organisation meant land reform was administered from Pretoria, and local administration was confused. Forestry and sand-mining likewise suffered with widespread forest clearance and un-authorised sand-mining.

### ***Department of Rural Development and Land Reform***

DRDLR's grasp of their own constitutional responsibilities was revealed in the national State Land Audit of 2013 which indicated that in the EC state land including state trust land amounts to 9% of the province when it is in fact 35%. Nor does DRDLR abide by its own legislation policies and procedures, specifically the *Interim Protection of Informal Land Rights Act No.31 of 1996* (IPILRA) and the associated *Interim Procedures* as will be illustrated below with reference to WC hotels and the Eastern Cape Development Corporation (ECDC).

Furthermore the Minister of Rural Development and Land Reform is responsible for leading the Presidential Infrastructure Co-ordinating Commission (PIC) team responsible for the implementation of Strategic Infrastructure Project (SIP) 3 which includes the N2 toll road through Mpondoland and the Mzimvubu water scheme. This creates a serious conflict of interest with his role as trustee of state trust land in the area.

DRDLR is responsible for land administration including the PTO proclamations and the Deeds Registries and Surveyors-General are part of the department. For 20 years DRDLR, and DLA before it, has neither repealed nor administered the proclamations governing land tenure and PTOs. There is no sign of meaningful land tenure reform for the rural areas which addresses the need for land administration, even after the Constitutional Court in 2010 ruled that the *Communal Land Rights Act No.11 of 2004* was invalid. That Act provided a controversial and probably unrealistic and unimplementable way forward.

DRDLR and not CoGTA is responsible for the absence of any planning law in Transkei rural areas, and the continued use of outdated Ciskei and Transkei planning acts. The administration of planning and land use management law, however, is the responsibility of provincial CoGTA. Given the capacity constraints of municipalities it is unlikely that there will be any creative implementation of the national *Spatial Planning and Land Use Management Act No.16 of 2013* (SPLUMA) which might partially restore aspects of rural land administration.<sup>25</sup>

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<sup>25</sup> The announcement that "DPME [Department of Planning, Monitoring and Evaluation in the Presidency] will take over the responsibility for driving and producing the National Spatial Development Framework" from DRDLR and CoGTA is unlikely to have any effect at municipal level. (<http://www.gov.za/speeches/minister-jeff-radebe-planning-monitoring-and-evaluation-dept-budget-vote-ncop-201617-19-apr>)

Experienced public servants warned of the need for legislation repealing and replacing proclamations such as 26/1936 to address particular risks:

“There is immense potential for the residential subdivision of rural land to occur in a haphazard, unplanned and undesirable manner as happened, for example, on the KwaZulu/Natal South Coast after 1940. It is recommended therefore that serious consideration be given to preventing such consequences by including provisions to this end in the legislation that repeals the present laws.”<sup>26</sup>

The collapse of rural land administration and the loss of the associated institutional and human expertise was most probably a major contributory factor to the limited impact if not failure of many post 1994 state actions in affected areas.

## 8. The original coastal hotels and disputed ownership

The 11 hotels established or re-established on the Transkei coast prior to 1976 are described in the following table, including their current status and whether they are included in a recent Power of Attorney (PoA) from the Minister of Rural Development and Land Reform to the Eastern Cape Development Corporation (ECDC), successor to the Transkei Development Corporation (TDC). Where the Minister is the nominal owner as trustee of the underlying land, ECDC (and TDC beforehand) leases out the improvements and businesses to operating companies in terms of this PoA. Tenure arrangements highlighted.

Hotel	History and current status
Mbotyi River Lodge, Lusikisiki	1907 established as trading site and as resort from 1913. 1922 Deed of Grant of Crown Land of 4.2 Ha for trading site, ie full registered title, only one on WC until the recent Seagulls title. 1935 access road constructed. 1960 sold for £950. 1985 bought by Dr Mazwai who built hotel and concrete access road from Magwa. 1993 hotel closed in fraught period. 1999 owners sued by ECDC for loan repayment. Sold to two Johannesburg businessmen, Mazwai remained minor partner. Private, not listed in 2015 PoA.
Mngazi River Bungalows and Spa, Libode	1924 Cutweni trading station and boarding house, access from Port St Johns. 1978 acquired by TDC and leased to company (Sigcawu, Dube et al). 1993/4 bankrupt, acquired by old Mpondoland trading family. 1999 title to land obtained presumably in the form of a Deed of Grant for a trading site. Major success story owing to owner/management persistence. Private, not listed in 2015 PoA.
Anchorage Hotel, Ngqeleni	1935 or earlier establishment. Acquired by TDC and later by Thurston family from Mthatha/Ngqeleni. Currently in state of disrepair. Possibly held under PTO by late Mr Thurston, ie PTO lapsed, cannot formally be renewed.

<sup>26</sup> Jim Feely, Nature Conservation Section, Ministry of Agriculture and Environment Affairs, Eastern Cape Province, 31 August 1994, *Possible Changes in Land Tenure on State Land in Transkei: Implications for Planned and Unplanned Development*

Ocean View, Mqanduli	<p>1905 established. Taken over by TDC. Stands on split surveyed Remainder of Farm 31 Mqanduli, held under Deed of Grant TF29166/1975 registered in the name of "SA Bantu Trust".<sup>27</sup> 2001 ECDC claimed/assumed to hold PTO. Changes of owner/operators in 2005, 2009 and 2012. DEDEAT fine of R70 000 for commencing building extensions without prior approval. Now 3 star rating. Included in 2015 PoA.</p>
Lagoon Hotel, Mqanduli	<p>1903 established. In 2001 ECDC claimed/assumed to hold PTO. Hotel dilapidated and vandalised. Re-developed as land reform project under <i>IPILRA</i> with IDC loan. Land leased from Minister and community trust. ECDC funding of community shares. Debt issues, changes in operators. Included in 2015 PoA. However ECDC property section staff state not on their system.</p>
The Haven, Elliotdale	<p>1922 established in forest area. 1968 rental for the land on which hotel situated was R120 per annum.<sup>28</sup> 1970 onwards Seaside Resorts Board refused to permit improvements. 1974 TDC took over, centralised bookings in Mthatha. 1970s coastal cottages at Mendwana within Dwesa reserve demolished. Dwesa-Cwebe reserves – local residents excluded. 1991 marine reserve worse exclusion. 1994 "invasion" of Cwebe. Ambitious WCDSI plans including pont across Mbashe to link reserves (destroyed in first seasonal flood), road abandoned. Series of manager/operators including Protea at various stages, usually on short term arrangements given restitution uncertainty. 21/10/1991 survey approved as part of Restitution Settlement granting immediate transfer to Dwesa-Cwebe Trust.<sup>29</sup> Transfer yet to happen. 2001 ECDC claimed/ assumed to hold PTO.</p>
Kob Inn, Willowvale	<p>Establishment before 1924, known as Blue Lagoon until 1950s. 1981 TDC Manager. Desalination plant! Manager 1989 – 2004 (murdered) granted option to purchase, developed rooms, laundry, staff quarters, etc. 3 star rating, 120 beds. 2001 ECDC claimed/assumed to hold PTO. 2009 surveyed (SG2298/2009), unregistered. Included in 2015 PoA.</p>
Mazeppa Bay, Centane	<p>Established 1927 or before, "Accommodation House" run by local trading families. Seaside Boarding House Site No.1 (T/170/46). 1978 TDC take-over. Rundown. Litigation settled in 1993 between Mr H.M. Mayekiso for Mazeppa Bay Hotel (Pty) Ltd and Mr M. Swana for TDC. 1995 onwards under new management, now 3 star rating. 2001 ECDC claimed/ assumed to hold PTO. Included in 2015 PoA.</p>

<sup>27</sup> i.e. not Government of the Transkei as per PoA – see below.

<sup>28</sup> Clive Dennison, 2010, *A History of the Wild Coast*, Brevitas, page170

<sup>29</sup> As stated by attorney for ECDC, 4 December 2001

Wavecrest, Centane	Originally at Cebe. 1934 Boarding House established. 1960s construction of airstrip and hangar. TDC take-over and lease to Transtar Hotels then to Wavecrest Villas Shareblock Pty Ltd. High Court ruling on public access to beach, illegality of SG diagram. <sup>30</sup> 2001 ECDC claimed/assumed to hold PTO. <sup>31</sup> 2010 announcement that prominent businessperson Gloria Serobe had bought the hotel, ie the lease? Included in 2015 PoA.
Seagulls, Centane	1901 established as Hassal's Boarding House. Deed of Grant (Trading Sites) No. G10/1993. TDC take-over and lease to succession of operators. Improvements for R169 000 & land for R20 000 sold to Seagulls (Pty) Ltd in 1993. 2013 granting of registered title by DFA Tribunal, re-developed as hotel and self-catering units. Cost of full Environmental Impact Assessment approximately R900 000.
Trennerys, Centane	Established before 1928. TDC take-over, leases to succession of operators including Mr Guzana, Protea Hotels. Land is unsurveyed. Not listed in 2015 PoA. Fallen through the cracks?

What becomes apparent upon studying these different enterprises and their history is that each one is different and has its own particular problems, however, the common thread is issues around tenure and the use of the PTO system to legalise the hotels. The Transkei practice of separating land and improvements further complicates the issues.

## 9. ECDC – A confused legacy

The role of ECDC as the inheritor of properties of the Transkei Development Corporation is critical. ECDA inherited a property portfolio which it estimated to be worth in excess of R400m at cost price. It wished to sell these properties and use the cash realised as a basis for local financing. However, it was aware that while it owned much property in the form of improvements, many of the improvements were situated on land which it assume to be held by PTO and/or under the control of the Minister of Land Affairs. ECDA proposed to act as the agent of the EC Province to secure the donation of such land parcels by the Minister to Province and to then dispose of improvements and underlying land to ultimate beneficiaries.<sup>32</sup>

In June 2001, an internal ECDC memorandum stated that ECDC assumed that it held PTO certificates to the following eight sites: Mzamba (Mbizana), Second Beach (Port St Johns), Ocean View and Lagoon (both Coffee Bay), The Haven (Xhora), Kob Inn and Wavecrest (Gatyana), and Mazeppa Bay (Centane). The EC office of DLA indicated to ECDC that any request for the donation of the state trust land on which the hotels were situated would be counter to policy which recognised that the underlying rights to such land belonged to the long term residents of the area.

ECDC presumably did not like what they were told and in October 2001 wrote directly to the Director-General (DG) of DLA to request transfer of title to five hotels on the basis of an approval by the Transkei Military Council for such transfer in November 1990, as well as the

<sup>30</sup> Transkei Division, Case No. 357/2001

<sup>31</sup> Memorandum from ECDC to DLA, East London, 13 June 2001

<sup>32</sup> Chief Administrative Officer, ECDA, to MEC, Economic Affairs, Environment & Tourism, 8/1/1999.

transfer of three other hotels not covered by this approval, one of which, at Mzamba, was already held by title. A separate memorandum from the CEO to the DG requested a power of attorney to seek to set aside a settlement agreement made an order of court in a dispute in 1993 between TDC and Mazeppa Bay Hotels (Pty) Ltd.

The DLA concluded that the decisions of the Transkei Military Council amounted to policy decisions which were not binding on subsequent governments. DLA committed itself to work together with ECDC to resolve the matter,<sup>33</sup> at which point the paper trail runs cold. Perhaps both ECDC and DLA were diverted to other issues, at least until the issue of the PoA in 2015.

ECDC may be able to claim only the historic value of improvements from the custodian department of state which in this case is the national DRDLR. In addition to the weak legal claim of ECDC to the improvements on the hotel sites, the legality of Deeds of Grant (Trading Sites) issued for hotels and hotel sites is also questionable. An internal DLA (Eastern Cape) memorandum with annexures, including a legal opinion on the Seagulls Hotel prepared in 1999 by a retired Chief State Law Advisor to the Transkei government, reached the conclusion that they were unlawful on numerous grounds.<sup>34</sup>

On 17 September 2015 the Minister of Rural Development and Land Reform issued a Power of Attorney (PoA) to ECDC inter alia “to manage, control, maintain, improve and safeguard the immovable assets listed in the attached Schedule”. The schedule included the Wavecrest, Mazeppa Bay, Kob Inn, Ocean View and Lagoon View hotels. The PoA includes the power to enter lease agreements and collect and to collect any debt. It does not state to whom any rental or other debts must be paid. Insofar as the PoA may be interpreted to allow ECDC to claim all such rental and debts for itself, it is contrary to official DLA/DRDLR policy, specifically IPILRA and the Interim Procedures.

The PoA does not include the authority to dispose of the land on which the hotels are situated. If it did so this would certainly be contrary to official DLA/DRDLR policy.

## **10. Subsequent tourist developments and experiences**

The following list of tourist developments ranges from hotels to low-key backpackers. The majority cater to the international backpacking market who want to go to more remote places that offer unique experiences. This list is not exhaustive but is indicative of the range of developments and experiences. Apart from the Wild Coast Sun Hotel and Casino most are privately owned and have some community participation or ownership component. The tenure arrangements are primarily informal or more formal leaseholds that may be based on PTO rights.

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<sup>33</sup> Acting DG, DLA, to CEO, ECDC, 4/6/2002.

<sup>34</sup> Dated 22 August 2003

Venture, Location	Notes
Wild Coast Sun Hotel and Casino, Mbizana Magisterial District	Late 1970s businessman got rights to 600 ha, sold rights to Holiday Inn, then to Sun International for a casino as casinos not allowed in SA. Corruption stories. Little relation to WC. Subject of successful community claim for restoration of land rights. "In court papers, Transkei Sun International Limited (TransSun), defended its rights to the land, alleging that the Transkei government initially granted a 25-year lease on the property in 1978 and a year later changed it to a 50-year lease. ... The 50-year lease will be replaced by a new lease that will run to 2034. In 2029 either party may give five years' notice to the other party." <sup>35</sup>
Drifters Wild Coast Adventure	2007 established 6 camps at Msikaba, Luphutana, Cutweni, Manteku, Ntafufu, and Port St Johns with hiking, biking trails between. Unspecified community participation. IPILRA compliance – check with NM.
Khululeka Retreat (Wild Coast Inn), Lusikisiki	Early 1900s established as Wild Coast Inn adjunct to Seaview trading station. 1967 acquired by Dept. Home Affairs and fell into disuse. 1990 re-established by Lusikisiki businessman, 2002 sold and name changed. <sup>36</sup> Tenure?
Eco Swell Lodge, Libode	Private initiative, low-key self catering started 2007. <i>DEDEAT fine of R140 000 reduced to R80 000</i> . No formal land tenure arrangement, only DEDEAT authorisation. Investment of R1-2m by 4 partners, 2 overseas who want a return on their investments before any local profit sharing. Community support thusfar sporadic and mainly by foreign visitors.
Mdumbi Backpackers, Ngqeleni	2002 started as private project, Mdumbi Pty (Ltd), by two business partners. Total investment over R1m. After three years gave 30% to 5 staff as shareholders, 10% to Transcape NPO, 10% to Mankosi Association/Trust. A school and NPO run from the premises. The site is still held by the Dutch Reformed Church which operated the nearby Canzibe mission hospital. Rental accrues to the church, not the community, unfortunately per owner/operator. Except for Eskom, totally off-grid. Provide free drinking water for local community.
Nenga Lodge, Coffee Bay	2006 established on split remainder of Farm 31 Mqanduli, registered state land, with community support. Leased to FET for student accommodation. 2013 ECDC attempted eviction, unsuccessful for lack of <i>locus standi</i> .
Coffee Shack, Coffee Bay	2000 started as private backpacker initiative. Leased then bought existing PTO rights in 2003. Annual rental paid into trust account for local community. Since 2005 this totals over R1m, used mainly for building high school classrooms. Profit sharing is paid straight to ECDC until 2020 for repayment and servicing of loan to purchase 30% community share in the business. Two community directors. Also fund NGO doing nursery schools, supporting retired mineworkers. Community dynamics are a problem and constraint. <i>DEDEAT fine of R562 000</i> for reconstruction of retaining wall destroyed by extreme tidal surge.

<sup>35</sup> Dennison 2010: 162; Report of 2014/11/20 accessed 2016/02/17 at <http://www.moneyweb.co.za/uncategorized/sun-international-settles-wild-coast-land-claim/>

<sup>36</sup> Dennison 2010: 184-5



Hole-in-the-Wall, Mqanduli	1982 Shane Lang formed Dalindyabo Enterprises Pty (Ltd) Deed of Grant (unusual). Shareholders Shane and father Deryck Lang and then paramount chief of the Mthembu, Bambilanga Mtirara. In 1983 a “Deed of Grant (Trading Sites)” was issued to Dalindyabo Enterprises for “certain piece of quitrent land known as LOT HOTEL being a piece of quitrent land situate at Hole-in-the-Wall in Administrative Area No.18 called Mtonjana measuring ... (4,2079) Hectares ...” <sup>37</sup> Late 1980s converted to time share. Re-possession by Lang?
Bulungula Lodge, Elliotdale	Unique developer/community joint venture, now totally community-owned and operated. Means for sustainable rural development. DEDEAT and DLA support under IPIIRA but long lease never issued, still no official tenure. Occupation 70%, incubator for 13 small businesses, also early learning centre. No road, water, telephone, school – no government. World rating top 25 eco developments. 2015 international prize awarded in New Work.
Wild Lubanzi Backpackers, Elliotdale	2010 started private backpacker initiative, 27 beds. Original staff and neighbour are directors. 30% community share. Bought existing illegal site and rudimentary structure. <i>Now facing substantial DEDEAT fine and demolition</i> and accept will have to relocate to another site. Yet determined to continue.
Nqabara, Willowvale	Community lodge funded by EU. <i>DRDLR gave lease to community at commercial rental for 5 years on their land!</i> Lease has now lapsed and only approval is environmental. Eskom for craft centre cost R160 000 despite availability, plus R80 000 pm month charge - seen as business, not trust. Project shut by Eskom, equipment attached. Lodge beds very limited access to water (dependent on rain and spring). Roads impassable in rain except with 4-wheel drive. <sup>38</sup>

Mbotyi River Lodge was the only case of freehold on the WC aside from Port St Johns until Seagulls DFA title. The form of tenure, even title, does not seem to have made much difference and the challenges appear to be the same irrespective of land tenure, perhaps even including at Port St Johns.

The following are direct quotes from interviews on the subject of land tenure:

“The community would prefer to keep owing the land and getting rental. Other developers are having to find other ways to gain community support or at least the support of key leadership. Leasehold probably the preference, although it is complex at the moment.”

“If we were offered private tenure we would take it, as would the local community because the headman is corrupt and they fear that he will alienate land. The local headman allows heavy trucks to remove sand and messes the road. He takes all the money. The community has been trying to stop this for years to no avail.”

“Title would be great for business purposes but haven’t thought about whether it would be good as I understand that the land is not really ours. At the end of the day we are here with the permission of the community so not a day goes by when we do not think about what we can do for them.”

<sup>37</sup> Dennison 2010: 191-2

<sup>38</sup> Also Luci Coelho, 2013, *Final Narrative Report for the Nqabara Integrated Development Initiative*, prepared for SURUDEK, the implementing programme for the EU.

"I don't believe individual title is the right thing although it may be inevitable. Give Coffee Bay municipal status under present or current land tenure possibilities."

"Oblige community participation at minimum 30%."

"Each department, municipality, chief, believes that they are the leading agency. I believe that DEDEAT is the central authority because of the CCA."

A fuller written response from one of the most qualified and successful WC owners of a tourist facility:

"My quick response to your Coffee Bay enquiry [as to how to go about such nodal development] would be to begin with the identification of where the likeliest "pockets of value" would lie?

"Firstly, it must obviously be in the value of the land, assuming that the location is desirable. If the owners of the land (DLA?) wished to dispose of it for the purposes of developing/improving same, then the proceeds could be used to benefit the surrounding communities by building something like a clinic, school or hospital wards etc. In the event that ownership is retained, then I would advocate long leases, given the rather modest returns that I believe an investor will realise for some time to come in the Eastern Cape

"Secondly, most of the benefits will accrue to those who are fortunate enough to be employed somewhere in the hierarchy at such a development. Naturally, the more skilful and experienced the prospective employees are, the more attractive their employment conditions are likely to be.

"Thirdly, if the local communities are to participate in the equity of any of these entities, it is most likely that they will require financial support from some institution? Unfortunately, the terms and conditions attaching to some of these loans appear to me to be extremely onerous on both the borrower and the establishment in which they are invested – they often look for back-to-back guarantees from both parties?!

"Footnote: passive, outside investors who are not involved in the day-to-day business of an hospitality establishment, are quite often not what is required. There are a number of reasons for this, the most important being that the investments are long-term by their very nature and are not always able to pay an annual dividend in the way that might be expected? Investors need to be patient, have deep pockets, a kindly approach to staff and possess a natural affinity for people in general."

## **11. What is not working**

In early 2016 there were some 20 development applications for the Coffee Bay area with DEDEAT and DRDLR. Neither DEDEAT nor DRDLR are able to facilitate developments which have major implications for essentially urban development, especially with regard to demands of urban infrastructure such as potable water and waterborne sanitation.

Most wall-to-wall local municipalities are themselves under severe constraints and have backlogs in infrastructure in existing core urban areas under their jurisdiction, for example, King Sabata Dalindyebo (KSD) Local Municipality with Mthatha as the immediate priority. Yet KSD is pushing ahead with the formal establishment of a town at Coffee Bay.

Municipal services are generally non-existent or inadequate to assist coastal development. Most developments along the Wild Coast have to arrange their own water supply, sewerage treatment and solid waste disposal. Electricity supply is unreliable to the extent that high-end facilities keep their own generators for back up. (On the positive side this does open up a niche market for low impact and off grid developments, although Nqabara Lodge does not seem to have exploited this marketing opportunity)

Non-alignment of procedures by DEDEAT and DRDLR has prevented any investment in wind turbines for the commercial generation of electricity for the national grid on sites east of the Kei River (as well as complicating development at Mdumbi Eco Swell Lodge, Lubanzi backpackers and Nqabara River Lodge). To date all wind farm projects have been situated west of the Kei River because of an inability to address and resolve land issues.

It is not clear why this is the case given the previous implementation of *IPILRA* and the *Interim Procedures*. See the Annex 1 for some indication of the number of projects forwarded to the national Minister for approval in terms of this legislation and procedure. However there does appear to have been an instruction from the current Minister to the DRDLR in about 2012 to withhold approval or implementation of any agreements pertaining to land rights and the benefits thereto which were contested or possibly contested by traditional leaders.<sup>39</sup>

In the absence of capacity to facilitate and drive local coastal development such as at Coffee Bay, but in response to political pressure to do so, KSD understandably does what is easiest and proceeds with the purely technical design of bulk water and sewerage infrastructure for 1 000 sites at Coffee Bay and a further 1 000 sites at Hole-in-the-wall but none of this occurs within a wider process of local consultation which aims to address both local land rights and longer term sustainable development including of effective new towns.

The lack of municipal capacity extends to regular administrative issues as well. Mngazi River Bungalows reported that the Port St Johns municipality were claiming R1.25 million in rates and taxes, despite the fact that they don't supply any services. This cost the company significant legal fees contesting the situation. In February 2015, the municipality agreed to reverse the charges but a full year later, the charge still appear.

In the absence of local planning and management, the emphasis has been on selective law enforcement on developments rather than the successful creation and establishment of aligned development procedures and criteria. The success of the WC Illegal Cottages Task Group and the "Green Scorpions" in dealing with illegal cottages is important. This is selective in that it ignores, for example extensive sand mining. The Task Group itself was only set up in response to pressure in the form of the outcome of a 1996 Wildlife Society of SA high court application against the Minister of Environmental Affairs and Tourism to prevent unlawful coastal development.<sup>40</sup>

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<sup>39</sup> See paragraph 7 of "Affidavit in support of an application for postponement" deposed by Chief Director Ntombizodwa Mashologu on 6 June 2012 in Mthatha in the matter between the Cata Communal Property Association and the Minister and nine others, LCC 146/2011.

<sup>40</sup> Wildlife Society of Southern Africa and others v Minister of Environmental Affairs and Tourism of the Republic of South Africa and others [1996] 3 All SA 462 (Transkei).

The impression is created that government is selectively targeting beneficial developments with massive fines while ignoring other contraventions such as sand mining:

- Wild Lubanzi Backpackers 300m to the north of illegal mining at Mbolompo Point was fined and have to relocate.
- Eco Swell Lodge fined R 140 000, adjacent sand mining at Mdumbi River mouth not fined or prosecuted.
- Coffee Shack at Coffee bay: seawall destroyed by storm surge and re-constructed without permit. Fined R 562 000.

High level administrative decisions are also being made contrary to existing law and policy such as *IPILRA* and the *Interim Procedures* as indicated by the recent Power of Attorney to ECDC. Similarly the instruction by DMR to province not to prosecute illegal sand mining amounts to an instruction to province not to implement provincial legislation.

The cost of Environmental Impact Assessments (EIAs) is prohibitive, especially for low key ventures with high levels of local community involvement. EIAs are also paid for directly by the developer so answer to developer's requirements rather than wider priorities and issues of sustainability in attempting to secure approvals.

There is in the absence of authority, delegations and decision-making where it is needed. Land is a constitutional competence of the national sphere of government, under the Minister and Department of Rural Development and Land Reform (DRDLR), formerly Land Affairs, with a District Office in Mthatha, provincial office in East London. DRDLR has legal authority but little capacity or motivation for land administration at local level. Province, including the Premier, CoGTA, DRDAR and DEDEAT, all have legitimate interest in land use, but have very limited legal authority/competence over land tenure. DRDAR had capacity (sort of) but no constitutional competence. There is DRDAR motivation amongst field staff to tackle land administration issues but not at managerial level. DRDLR in September 2012 instructed – a verbal instruction, nothing written – DRDAR not to issue PTOs. Chaos has increased.

Under the TLGFA, "land administration" is included in a list of potential roles of Traditional Councils, but not land tenure. Traditional leaders long played a facilitating role from customary law to the present in land allocation, but had no authority in respect of land ownership. They tend to overstate their own role and powers because of the vacuum in government land administration. On the other hand CPAs and community land trusts have their own expectations of authority over local governance.

The decentralised constitutional architecture of SA has created multiple and often competitive locations of authority which complicates and hinders rather than facilitates decision making around development.

None of the three major post 1994 state interventions have succeeded: the WCSDI, Magwa Tea Corporation and the Pondoland National Park. The deadly and unresolved situation at Xolobeni<sup>41</sup> is perhaps the best and worst example of a general lack of competent governance.

## 12. What is working

Infrastructure including cell-phone towers, the extension of Eskom domestic supplies, water supplies, village access roads, health (rural hospital refurbishment and clinics), education (school rebuilding), social housing programme. Very little of this is at the behest of local municipalities and it is thus uneven and sporadic in time and geographic spread.

Local initiatives and persistence have achieved success. This is due to the determination of developers with persistence and private capital, despite chaos and obstacles, and who are prepared to play a direct role in the project, usually managing it on site.

There are a range of successful businesses run or initiated by such determined individuals, often with some links to the area. These provide a range of tourist accommodation and services. These businesses are generally the result of determined, resourceful and mildly adventurous business decisions.

Most of these businesses operate under tenure arrangements which are based ultimately on local relationships of trust and understanding rather than on formalised agreements.

Crucial to the success of these businesses is the involvement of local people and the accrual of material benefits to the local population. This takes a variety of forms including direct remuneration of and/or profit sharing with staff, rentals and dividends paid locally for locally determined community priorities, and support for local NGO activities and programmes.

There are a range of local NGO, quasi NGO and CBO contributions providing local social support services. A significant number of eco-tourist/backpacker ventures provide local services and facilities such as pre-schools, IT access etc.

Local retail outlets constitute another category of commercial enterprise which has taken root, filling part of the void created by the collapse of the rural trading station system since the late 1970s. While some may occupy long established and surveyed trading sites under lease or ownership, many smaller outlets, often operated by foreign nationals, have less formal tenure arrangements.

In contrast there is a thriving, indigenous, unregulated and unmeasured business in livestock across the Wild Coast and hinterland. A most conservative estimate of annual turnover of small and medium livestock is R1bn per annum in the former bantustan areas or an additional 40% above the average contribution of all agriculture to the GGP of the Province.<sup>42</sup>

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<sup>41</sup> The Minister of Mineral Resources gazetted his intention to declare a two-year moratorium on new mining applications at Xolobeni (*Daily Dispatch*, 2018/08/07).

<sup>42</sup> See Kenyon, 2014, "Cattle-keeping, markets and inclusive growth in the Eastern Cape Province, with main reference to the Amathole region", paper commissioned by REDI3x3 through the University of Fort Hare, drawing on earlier work by Coleman and others.

Another thriving business is sand-mining for construction, much of it driven by the material requirements of contractors on public projects – the building of schools, social housing etc. Sand-mining at last count was taking place with no authorisation, contrary to a range of legislation including environmental and mineral, and with no public revenue being generated, at over 160 coastal sites. Much if not most of this revenue is being captured by local elites.

An even less known, understood and unmeasured but possibly even larger in terms of monetary value commercial enterprise is that based on the production of cannabis sativa, dagga. It probably sustains another substantial portion of the rural population of the Transkei, providing security of income without any formal security of tenure. It may not be a coincidence that the branches of Standard Bank in the Transkei outside of Mthatha with the highest turnover are those in Lusikisiki and Mount Frere, both towns situated in the immediate neighbourhood of the almost inaccessible and highly fertile valleys of the Mzimvubu River and its tributaries.

The livestock economy has been very resilient and thrived across the Transkei despite numerous attempts to regulate or intervene in the rural economy, both before and after 1990 and with alarming continuity of objectives and approach. The absence of land administration has not hindered this enterprise, especially as livestock ownership has become concentrated in an ever-decreasing number of households who monopolise use of the commons. In contrast any steps towards legalising the production of cannabis may remove the very protection that illegality provides against intervention and takeover by large commercial enterprise.<sup>43</sup>

### **13. Conclusion and recommendations**

Over a long period there have been numerous development programme initiatives, most of which have achieved little if anything. This may suggest that the potential for development is in fact limited and that any development plans should focus on first understanding and second supporting existing local economic activity such as the livestock economy, and even where some such activity may be contrary to existing statute law, such as the production of cannabis.

It is quite clear that in the Wild Coast, economic development around tourism and conservation has been held back by issues of governance, specifically municipal incapacity and a backlog of public infrastructure and services, and confused or absent land administration in particular.

The absence of formal, public land administration in rural and former African homeland areas, called “bantustans” by apartheid’s racial architects, is indicative of a wider crisis of rural governance and perpetuates the relative incapacity of the municipal sphere of governance. The establishment of effective land administration in the short term may be central to addressing these larger pressing challenges of municipal and rural governance and ultimately local economic development in the longer term.

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<sup>43</sup> See for example The Green House Seed Co.’s “Strain Hunters Swaziland” on YouTube, or preferably the full feature for a detailed explanation of the security of income illegality affords Swazi households engaged in the production of cannabis. For a general social history of cannabis in South Africa, see Hazel Crampton, 2015, *Dagga: A Short History*, Jacana.

The contestation presently being experienced between municipal elected governance on the one hand and traditional leadership on the other is partly a consequence of the institutional weaknesses, complexities and inefficiencies referred to above, and these failures create the space for and perpetuate such contestation.

The form of land tenure is not the central issue. The WCSDI failed as spectacularly in Port St Johns under registered freehold title as it did across the rest of the Wild Coast. See Annex 9.

Unfortunately, it is apparent from this investigation that *government itself is the major constraint to development on the Wild Coast*.

The *lack of co-ordination and alignment and general inaccessibility* of all three spheres of governance in the Wild Coast is perhaps the greatest problem.

*Land tenure arrangements, precarious or not, are a major constraint on further investment*, but amongst many limitations which together create a general climate of apprehension, caution, hesitation, and negative risk assessment.

*Uncertainty around land tenure and the administration of land rights is the direct source of inhibited development* in the cases of ECDC and hotels, the Mdumbi Lodge fiasco (Annex 8), coastal cottages, supposed but incomplete restitution of nature reserves, and mainly backpacker establishments running foul of DEDEAT enforcement.

The solution to the governance issue lies within the present constitutional architecture which allows for the *introduction of effective public land administration which may be nationally constituted but locally administered*, and for the extension of the provisions of other related legislation to the affected areas. Two good examples of such overarching legislation are the *Spatial Planning and Land Use Management Act No.16 of 2013* (SPLUMA) and the *Municipal Property Rates Act No.6 of 2004* (MPRA).

Some monitoring if not standardisation of land rental and profit-sharing agreements across the Wild Coast might be encouraged. This should be part of a much wider initiative to re-establish land administration in trust land or “communal” areas as well as a wider presence of governance, especially municipal governance.

Local land rental agreements, with or without profit sharing and the provision of other local support and services, including for example, the provision of potable water, are the preferable manner in which to secure and safeguard business investment.

Short-term recommendations that could be implemented at minimal financial cost are:

- *Issue long term leases* <sup>44</sup> to existing hotels, backpackers and cottages using the *Interim Procedures* under the *Interim Protection of Informal Land Rights Act* (IPILRA) (Annex 1).
- Minister of Rural Development and Land Reform to *delegate authority* for the above to within the EC Province (Premier or EC CoGTA or DRDLR itself)

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<sup>44</sup> The lease period advocated under the SDI and which was accepted in engagements with serious potential investors was 30 years. However this may vary depending on the nature of the investment.

- *Incorporate the Land Use Management Guidelines of the 2005 Wild Coast SDF (Annex 3) into the SPLUMA by laws of the coastal Local Municipalities.*
- *Create a co-ordinating and information agency with administrative authority for WC development with agreed development requirements of all government departments and agencies and serious effort to align and streamline these.*
- *Once this is in place, ensure ongoing communication of policies, legislation and procedures to rural communities.*

A set of detailed recommendations were prepared for the Eastern Cape Planning Commission in 2013 and appear in Annex 4.



The **Research Project on Employment, Income Distribution and Inclusive Growth (REDI3x3)** is a multi-year collaborative national research initiative. The project seeks to address South Africa's unemployment, inequality and poverty challenges.

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