INTRODUCTION

Almost 50 years has passed since District Six (D6) was declared a ‘white’ group area. The people of District Six were dispersed to racially-defined ghettos on the Cape Flats, which saw the uprooting of a very vibrant and closely knitted community of all religious, cultural and social affiliations that lived in harmony with each other.

The redevelopment process of D6, after the lodging of restitution claims were fraught with challenges that did not meet the needs and requirements of the claimants. After almost 15-years since the closing date of 31 December 1998 for restitution claims, the majority of claimants have still not been restituted and have become disillusioned and highly dissatisfied with progress made to ensure their return to their beloved place of birth. The long wait has taken its toll on many of the elderly claimants who have died waiting or yearning for their home-coming.

Over this period of almost 15-years not much meaningful progress had been made towards bringing the District Six redevelopment project to a logical conclusion. The two Pilot phases which were built, yielded only 138 dwellings. In response to on-going claimant dissatisfaction with progress of the development process the Minister for Rural Development and Land Reform Mr Gugile Nkwinti, saw fit to engage a more inclusive process.

The Minister personally initiated engagements with the D6 claimant community at two broad general meetings held during 2012. The Minister’s intervention resulted that the principle of the “centrality of claimants” and “fairness and equality” within the restitution process was unanimously adopted and their restitution placed firmly into their hands.

At the meeting held in September 2012 at the Cape Town International Convention Centre (CTICC) the Minister requested the D6 claimant community to elect a Reference Group consisting 20 claimant members to fast-track their home-coming within the mandate of the State President, the honourable Mr Jacob Zuma, to ensure claimants return to D6 no later than the end of 2014.

D6 REFERENCE GROUP MANDATE

The Reference Group (RG) was mandated to fast track the next phase of development in the District Six restitution process, in keeping with the centrality of the D6 claimants. The RG to act as a combined team handling two separate aspects of the process as follows;

- **Technical** matters related to the restitution process (Restitution ACT, Development Framework, Business Plan and Memorandum of Incorporation); and

- **Social Integration** matters relating to the Socio-Economic welfare, Social cohesion, Youth Programs, Healing, and basically prepare for a returning community that has been fragmented for so long, to ensure self-sustainability into the future.
The Department of Rural Development and Land Affairs assured the Reference Group of their strategic support to enable them to effectively deal with the afore-going matters.

ACHIEVEMENTS THUS FAR

The Reference Group held regular weekly meetings with representatives of the Department of Rural Development and Land Claims and other strategic partners since its inception. They also convened over 40 additional mid-week and week-end meetings which included a full day workshop on Saturday, 8 December 2012 and full day work session on Wednesday, 19 December 2012.

The Reference Group met with all 3 tiers of Government (National and Deputy Ministers, Premier of the Western Cape Provincial Government and the Deputy Mayor) on 25 October 2012, where it was confirmed that all 3 spheres of Government are of one mind to see the redevelopment of D6 be finalised as a matter of extreme urgency with no political inferences in the processes. In this landmark meeting all the parties endorsed the D6 Reference Group (D6RG) and pledged their support and resources to assist the process to ensure the District Six claimants are returned home by end 2014.

The group initially struggled to obtain the relevant historical restitution records making it difficult to obtain a coherent picture of what transpired previously over the last 15 years, how to make sense of it and how it all fits together.

Initially the D6RG had to take a step back to get a full understanding of what transpired in the past, and so began a detailed study of all relevant documentation and previous decisions taken.

The group inter-actively engaged Target Projects Consultants on 6, 13 and 19 October 2012 to get a fuller understanding of the underlying principles and issues that gave rise to the options contained in the proposed Development Framework and Business Plan prepared by the consultants.

On the 3 November 2012 the D6 Reference Group had its first official meeting with the broad claimant community in the CTICC, where the claimants endorsed the direction in which they (D6RG) were moving. In the words of more than one claimant “the spirit of D6 has been rekindled within us”.

On the 12 November 2012 the D6 Reference Group met with the D6 Beneficiary Trust D6BT to foster cordial relations, given the institutional memory that resides within their office bearers. As this was a first engagement of the parties it can be described as setting the scene for further constructive engagements. The Minister confirmed that the Reference Group’s mandate was to deal with the future and further development of District Six and the District6 Beneficiary Trust will concentrate on finalizing outstanding issues pertaining to Pilot Phases 1 and 2 (houses and units currently completed)

Two representatives of the D6Reference Group were formally co-opted to serve on the local Inter-governmental Technical Steering Committee where the needs and requirements of the claimants are directly heard. A further two representatives of the D6Reference Group were also appointed to serve on the national Reference Group Forum (NASREG) of the Department of Rural Development and Land Reform.

Although much has happened over the years where the good that was done should be applauded, the broader interests of the dispossessed claimant community could now be constructively critiqued to chart a new way forward that would meet the needs of the D6 claimants.
The D6 Reference Group formulated a Position Paper with clear recommendations. The Position Paper was submitted to the Minister: Department of Rural Development and Land Reform on 30 January 2013 for his consideration.

The Position Paper addresses the following:

1. Restitution issues
2. Social Integration issues
3. The Draft Development Framework
4. The Business Plan proposals
5. The Draft Memorandum of Incorporation

Restitution matters

Since the closing date of 31 December 1998, for the lodging of claims, uncertainty remained with many claimants (both property owners and tenants) around the verification and validation of their claims by the Office of the Regional Land Claim’s Commissioner. The Reference Group understood clearly that if this important matter are not finalised it will not bring satisfaction and stability within the claimant community. In this regard the Reference Group has achieved the following:

Verification and validation of claims

Most claims submitted to the Office of the Regional Land Claim’s Commissioner by 31 December 1998 has now been verified and validated. Confirmation letters have been sent to all relevant claimants.

Settlement Agreements

The majority of claimants were dissatisfied with the Settlement Agreements that was initially concluded with the Office of the Regional Land Claim’s Commissioner and subsequent Disposal Agreement that had to be signed prior to moving into a dwelling erected in Pilot Phases 1 and 2.

The Reference Group was totally opposed to these agreements and the good news is that a new Settlement Agreement has been concluded with claimants for the final development phases that will supersede the previous agreements. Only one restitution agreement will have to be signed by claimants that do not require a claimant to be affiliated to any organisation or body. This Settlement agreement is the national agreement of the Department of Rural Development and Land Affairs that is applied to all restitution cases throughout South Africa.

Social Integration matters

Signing of a Social Compact for Pilot Phases 1 and 2

The concerns of claimants as to why they have to sign a Social Compact before they can be allocated a dwelling in D6 was also interrogated by the Reference Group. It was concluded that the content of the Social Compact is not necessary as there are various legislative measures already in place to adequately deal with the issues contained in the Social Compact. Meaning, Claimants do not have to accept and/or sign the Social Compact document to become eligible for a dwelling in D6.
Social Integration Challenges

Many of the elderly survived only a few days after their exile, and countless others lived a nomadic existence, rootless and restless, and now finally they have a chance to return home. In all these relationships, District 6 was a living, breathing example of how communities could overcome and work together within a range of very diverse and challenging circumstances.

As in any other social sphere, we must not allow ourselves to rewrite history to serve narrow interests. Whatever it is we encounter in the present, we know that the past walks alongside us as reminder that in attempting to undo a brutal racist past, we dare not gloss over errors of strategy or lack of principle and integrity.

There is just too much at stake as we endeavour to achieve nothing less than full restitution, resurrection and re-establishment of a people who were historically and brutally deprived, and discarded.

Social Integration Issues

The Social Integration part of the D6Reference Group mandate is perhaps more meaningfully elaborated by highlighting the following issues raised by frustrated and disillusioned claimants over more than a decade.

1. **Design:**

   Recapture the architecture and character of the old District Six, with similarities of the old Hanover Street and the Seven Steps.

2. **Oral History:**

   The history of District Six should be taught to all people who return, as every person who lives in District Six should be an ambassador.

3. **Tourism:**

   Tour guides to come out of the community. A proposal to be put to Cape Peninsula University of Technology (CPUT) to consider free training for tour guides. Establish and expand on tourism and District Six and surrounds.

4. **Religious tolerance:**

   Establish inter-faith religious groups. Invite all religious leaders from all D6 religious institutions.

5. **Culture / Re-creation and Sport**

   Cultural workshops to be established in partnership with the D6 museum to share the rich culture of all inhabitants of the country. Re-establish recreational centres, sport clubs and facilities.

6. **Healing process:**

   Establish a healing centre / facility for claimants needing counselling.

Envisaged Social Integration Programmes
The drafting of a detailed programme for social integration and the implementation of longer-term projects would address the very complex issues of building a new integrated community. From a Social Integration perspective the Reference Group intend to execute the following programme

How can Social Integration be best achieved within this process?

- Establish sub-committees (working groups) to co-ordinate and implement the various aspects of the Social Integration;

- Identify and implement detailed events and programmes to ‘re-imagine’ and bring into being the new District Six from the ruins of the past;

- Research, identify, communicate with, and establish working and strategic relationships with a broad range of institutions and individuals to practically facilitate the re-establishment of the new, re-settled District Six.

- Engage with the District Six claimant community to ensure the process is kept central to the claimants

Some of the work done thus far by the team;

1. Categorised the issues as identified at the claimant meeting held on the 1st Sept 2012, which became our working groups or Social Integration sub-committees.

2. Wrote terms of reference for the following sub-committees (working groups) and assigned members to drive each of them.

2.1. Social Healing/Counselling

2.2. Media and Communications

2.3. Social Interventions (Events and programmes)

2.4. Research (D6 Claimant Profiling Survey)

3. Produced a comprehensive list of programmes to be undertaken between 2013 and 2014, when the final restitution and resettlement of District 6 should be under way.

4. Identified agencies and persons to offer partnership relationships in order to achieve our aim of addressing all social issues and resettling relevant claimants in the new District Six.

Technical matters

DEVELOPMENT FRAMEWORK, BUSINESS PLAN AND MEMORANDUM OF INCORPORATION

BACKGROUND

Another important task for the Reference Group was to examine and interrogate a proposed draft Development Framework, a draft Business Plan and a draft Memorandum of Understanding (MOI), that the Department had commissioned using the services of consultants. The intention was to establish a business entity (SPV or special purpose vehicle/company) that would take
responsibility for managing the entire development of District 6. A Board of Directors, with a majority of claimants and other stakeholder representatives would be elected by the claimant community based on stringent criteria determined by the Reference Group.

The draft Development Framework, the Business Plan and the Memorandum of Incorporation was taken on a road show in 2012 to the claimant community in all areas. The Reference Group was tasked to study the draft Development Framework, the Business Plan and the Memorandum of Incorporation papers and to engage with the consultants to clarify any issues and then to come up with recommendations and improvements that would enhance and serve the best interest of the claimants. At the meeting with the claimants and the Minister on the 3 November the claimants raised a number of concerns and questions and the Reference Group then went in search of answers on the key issues raised.

DEVELOPMENT FRAMEWORK
The draft Development Framework presents a set a set of principles, strategies, design and planning guidelines along with infrastructure proposals based on the inner city context of the entire 40 hectare site. An integrated approach has been adopted informed by history and takes into consideration a range of social, environmental and economic concerns that would serve to inform the Business Plan proposals. A concern expressed by the claimants was to ensure that we capture the wholesome experience that District Six provided so that the shared heritage of the past can be expressed in the design of the new development. A number of concerns were raised concerning the sizes and design of the units and the issue of densities created some anxiety. The Reference Group has recommended that the Hanover street corridor be limited to retail on the ground floor and another two levels maximum above. Furthermore, upward densification over the entire development would be managed to ensure that views of of the surrounding landscape would not be restricted. The Reference Group also visited the 138 dwellings built in the pilot phases and engaged with the some of the occupants to ensure that their experiences and recommendations could feed into the next development phases.

BUSINESS PLAN
The Business Plan presented several options and all options were unpacked in detail by the consultant with the Reference Group in two workshops to explore and understand which option would best serve the claimants. Given the commitment and promise by Government to provide R700 million funding to accelerate the return of the community within three years, this accelerated “option 7” was seen as the most feasible in the draft Business Plan. But there were still some serious shortcomings. The main shortcoming was the proposal that claimants have to pay and amount of R225, 000 as a contribution in acquiring (the “purchase”) of their new homes and this has caused much anxiety and sadness among claimants as many would not be able to afford such a large amount and banks would not provide bonds to claimants who are largely senior citizens.
The Reference Group strongly recommended that The Restitution of claimants should not be linked at all to the payment of contributions to the cost of their houses. Restitution should be dealt with as a separate issue in line with the appropriate legislation. The Reference Group believes that claimants have agreed to be part of the development of District Six and therefore claimants should be encouraged to buy shares in the commercial development with all the down-stream benefits and dividends as stated in the Business Plan which would benefit the entire community. However, this remains an option to claimants to ‘buy’ into D6 Business Development Plan and is by no means compulsory on claimants. Suitable arrangements could be formulated by financial institutions that could facilitate the acquisition of shares similar to the principles of unit trust investments. This would create more certainty in cash flow projections and offer a more affordable solution. The Reference Group is still exploring alternative business plan options and this will all feed into producing an updated and final Business Plan with the full participation and approval of the claimant community.

MEMORANDUM OF INCORPORATION

The MOI remains work in progress and the Reference Group will engage expert legal and/or business support in making final recommendations on the MOI which will become the Constitution of the development company.

The composition of the Board of Directors should have a majority of qualified and competent members of the D6 claimant community. The Reference Group recommends that the right of claimants to sell their property should not be inhibited, as some claimants are representing a number of beneficiaries from one family where the original claimant is deceased. The ability for elderly claimants to unlock some value from their properties in their lifetime should be a key benefit of restitution. The Restitution in Land Rights Act adequately covers the issue of pre-emptive rights related to matters of restitution.

The Reference Group support the need for an SPV given the commitment by the City of Cape Town to transfer all the District 6 land to the claimant (beneficiary) community together with the central government’s commitment to transfer the R700 million funds required for the construction of the restitution homes into the account of the SPV. This would ensure the accelerated option of starting the building of houses in 2013 and returning the people back to District 6 starting in 2014. The legal aspects relating to specific conditions on structure and funding will be comprehensively dealt with in the Memorandum of Incorporation.
WAY FORWARD

The D6 Reference Group after research of all the available restitution and related documentation have now completed a draft Position Paper of its views on the main issues related to the restitution of land rights of the claimant community. Furthermore the Reference Group formulated proposals and firm recommendations based on the needs and requirements of the claimants. The Position Paper was submitted to the Minister of Rural Development and Land Affairs for his consideration and feedback.

The Department of Rural Development and Land Reform have committed itself to deal with many of the issues raised by the D6 Reference Group where priority matters would receive immediate attention.

All the matters that need to be addressed have, however, been incorporated into a detail D6 Project Plan with start and end dates attached to each specific activities.

The Reference Group is pleased to announce that the Department of Rural Development and Land Reform will shortly provide the Reference Group with fully equipped office accommodation. This development will enable the Reference Group to communicate more effectively with all claimants.

The Reference Group is committed to contribute towards the process of reconstructing a District Six community that is self-sustainable, dignified and socially and economically vibrant.