

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

03 OCTOBER 2019

DAY 176

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PROCEEDINGS COMMENCE 3 OCTOBER 2019

CHAIRPERSON: Good afternoon Ms Gcabashe, good afternoon everybody.

ADV LEAH GCABASHE: Good afternoon DCJ

CHAIRPERSON: Yes. Good afternoon Mr Thabethe.

MR MBANA PETER THABETHE: Good morning Chair.

CHAIRPERSON: Yes. Are you ready Ms Gcabashe?

ADV LEAH GCABASHE: Yes, yes we are Chairman.

CHAIRPERSON: Yes okay. I think in the light of the lapse of time
10 another oath must be administered. Please administer the oath before we start?

REGISTRAR: Please state your full names for the record?

MR MBANA PETER THABETHE: Mbana Peter Thabethe.

REGISTRAR: Do you have any objection to taking the prescribed oath?

MR MBANA PETER THABETHE: No.

REGISTRAR: Do you consider the oath to be binding on your conscience?

MR MBANA PETER THABETHE: Yes.

REGISTRAR: Do you swear that the evidence you will give will be the
20 truth; the whole truth and nothing but the truth if so please raise your right hand and say, so help me God.

MR MBANA PETER THABETHE: So help me God.

CHAIRPERSON: CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Thank you Chairman.

CHAIRPERSON: Hm.

ADV LEAH GCABASHE: Chairman with your leave might I just give you a very short roadmap.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Covering the areas that we will dealing with today we hope we can finish by tomorrow.

MR MBANA PETER THABETHE: Ja. Okay.

ADV LEAH GCABASHE: Chairman in about early September the commission was able to source a significant amount of information from the NPA as you had asked us to try and do. Our investigators got onto
10 it. We have indeed included those documents that are relevant to Mr Thabethe in the Reference bundle and will refer you to them at the relevant time. Included in this documentation is the affidavit of Mr Thabethe which he deposed to in 2017 under Park Road Case number 200/0701/2017. That affidavit has always been part of our bundles Chairman. What was missing were the annexures and we were having a little of difficulty at some point in dealing with those annexures because as you indicated without the annexures the evidence itself.

CHAIRPERSON: The picture was not complete.

ADV LEAH GCABASHE: Ja

20 CHAIRPERSON: Ja Hm.

ADV LEAH GCABASHE: Creates a few difficulties. So we – we now have most of those annexures Chairman so we will be taking Mr Thabethe through those just so he gives context to what he has said in his affidavits. Chairman in light of that might I ask leave to hand up two documents – two files. The first one is Exhibit HH10B it is Mr

Thabethe's affidavit but this really consists of all those annexures.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: That we have been able to source.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE: So there are just annexures there nothing else.

CHAIRPERSON: Oh okay. Okay.

ADV LEAH GCABASHE: Chairman then this...

CHAIRPERSON: Is there an indication here – oh the affidavit is there
10 as well?

ADV LEAH GCABASHE: The affidavit Chairman is in File A we have had it all along. You may even have scribbled notes on it I really am not sure. It is the very last ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Affidavit in – in File A. So you now have...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: For...

CHAIRPERSON: So in other words what I have here is the affidavit that we have always had but we did not have annexures.

20 ADV LEAH GCABASHE: Correct.

CHAIRPERSON: But now we also have annexures.

ADV LEAH GCABASHE: Correct.

CHAIRPERSON: It is the complete set as far as that affidavit is concerned? Maybe there might be some annexures that you have not been able to get?

ADV LEAH GCABASHE: Chairman there are.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Annexures we have not been able to get.

CHAIRPERSON: Yes but most are here.

ADV LEAH GCABASHE: I will be indicating – Sir?

CHAIRPERSON: But most are here?

ADV LEAH GCABASHE: Most are there.

CHAIRPERSON: Ja okay.

ADV LEAH GCABASHE: Then Chairman the second file I would like to
10 hand up and ask you to admit to the record is an additional Reference
bundle. The documents in this Reference bundle largely come from
documentation we sourced from another witness' bundle.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: You will be hearing her evidence in due
course.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE: But because she has not appeared before you
yet.

CHAIRPERSON: Ja.

20 ADV LEAH GCABASHE: We thought it prudent to use – she actually
had more information.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Than Mr Thabathe was able to source.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE: He has been struggling to get informationl.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE: So with your leave Chair we have called this Exhibit HH Reference bundle F for Freddy.

CHAIRPERSON: And this one that you have already handed up you would like to be admitted as.

ADV LEAH GCABASHE: The one I...

CHAIRPERSON: Exhibit HH10B?

ADV LEAH GCABASHE: Correct Sir.

CHAIRPERSON: Okay. The lever arch file containing Mr Thabethe's
10 affidavit of 10 August 2017 with annexures thereto will be admitted as Exhibit HH10B. And then this one. Do you want to keep it as Exhibit HH without any number?

ADV LEAH GCABASHE: Chairman with the Reference bundles we have not given them numbers.

CHAIRPERSON: In the past?

ADV LEAH GCABASHE: In the past.

CHAIRPERSON: Okay. The ...

ADV LEAH GCABASHE: If I might?

CHAIRPERSON: Yes.

20 ADV LEAH GCABASHE: Chairman assist. We have in fact just given them lower case letters of the alphabet.

CHAIRPERSON: Reference. Yes.

ADV LEAH GCABASHE: To identify that particular file.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: To make it easy to identify.

CHAIRPERSON: Okay. The lever arch file that has got various documents starting with Free State Legislature copies, member translators – surely it is marked – it is reflected as Appropriation Bill. So the file – the lever arch file containing various documents starting with Appropriation Bill – an Appropriation Bill will be marked Exhibit HH Reference bundle F. Yes.

ADV LEAH GCABASHE: Chairman there is one more Reference bundle that ought to be with you but is not we have found. It is Reference bundle E which comes just before the one you have just admitted.

10 CHAIRPERSON: Okay.

ADV LEAH GCABASHE: My recollection is that we had – you had admitted it.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Last time we were here at some point.

CHAIRPERSON: Yes. Okay.

ADV LEAH GCABASHE: So one of the investigators has gone across the road to make sure you – you get your copy.

CHAIRPERSON: Okay.

20 ADV LEAH GCABASHE: As far as I know Chairman we will not be referring to it.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE: Certainly not in the first hour.

CHAIRPERSON: Yes okay.

ADV LEAH GCABASHE: Might I proceed Chairman?

CHAIRPERSON: Yes you may proceed.

ADV LEAH GCABASHE: Thank you. Mr Thabethe good afternoon again.

MR MBANA PETER THABETHE: Good afternoon.

ADV LEAH GCABASHE: I am hoping to the do the following to try and ...

CHAIRPERSON: Oh I think we were going to let his counsel place himself on record first.

ADV LEAH GCABASHE: Oh yes indeed.

CHAIRPERSON: Especially because there has now been a change of
10 legal representatives.

ADV NQABAYETHU BUTHELEZI: Thank you. Good afternoon Chair.

CHAIRPERSON: Good afternoon.

ADV NQABAYETHU BUTHELEZI: I am Nqabayethu Buthelezi on instruction from Lugisani Mantsha Attorneys now representing Mr Thabethe.

CHAIRPERSON: Yes thank you.

ADV NQABAYETHU BUTHELEZI: Thank you Chair.

CHAIRPERSON: Okay thank you.

ADV LEAH GCABASHE: Mr Thabetha I was just indicating that the
20 first thing I am probably going to do is just put the version of Mr Mosenbenzi Zwane before you. The commission has now received his sworn statement and I think at some point the Chairman may elect to ask him to come and give oral evidence. But because we do not know when that might be I just want to sure that you understand his version especially in relation to your roles and responsibilities as he

understood them and set them out in his version. So I will be putting that to you. I will just start with that to get it out of the way. That will then be followed by the annexures that we were missing from the 2017 affidavit. We will deal with those very quickly. You will just give content to them now that you have them before you. Those have indeed been placed before you. After that portion we will deal with outstanding matters arising from the questions we had asked you earlier on and also just seeking clarity on one or two aspects. And we hope to complete this entire exercise by tomorrow in going through
10 some of the annual financial reports. Going through the monthly and quarterly statements that Estina presented to you etcetera. So that is the idea we hoping to finish with that section. There are one or two other things we had indicated to you that there are media reports we will be putting to you etcetera. But those are very short questions that I knitted into what we will be asking you. Are you happy with that?

MR MBANA PETER THABETHE: Ja Chair.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Ja I am – the only thing I wanted to check Chair. I have not received the ...

20 CHAIRPERSON: The affidavit?

MR MBANA PETER THABETHE: The affidavit yes.

CHAIRPERSON: Oh okay. Well I am sure you will make it available to him ahead of him having to deal with it.

ADV LEAH GCABASHE: Chairman I – if that is your ruling that is in order but we do not...

CHAIRPERSON: No I am not making a ruling. I am just saying I am sure that you do not intend to ambush him.

ADV LEAH GCABASHE: Chairman I – I did not understand that when an implicated party gives us a version that we give that version to the next implicated party. That is really how we are sitting.

CHAIRPERSON: Oh. Okay.

ADV LEAH GCABASHE: Mr Mosenbenzi Zwane is an implicated party.

CHAIRPERSON: Okay, okay. No, no I think what we have been doing is when a witness – a witness as opposed – I mean they are all witness
10 but a witness as distinct from an implicated person has implicated somebody when that person has given the commission a version then that affidavit would be given to – to him – to the witness. So I think effectively he is saying he would expect to be furnished with a copy. I think what should happen is his counsel and yourself will talk and then we will take things from there. Is that – in other words if they want to put a request they first discuss with you and there may be no need for any ruling. But if there is a problem then it can come to me. Is that fine?

ADV LEAH GCABASHE: Not really Chairman because that is what I
20 was going to start with.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: But if this is ...

CHAIRPERSON: Oh okayh.

ADV LEAH GCABASHE: Because it is just another witness who is going to say something about him.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: And I thought that he should at least have the benefit of hearing that.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Before we go back to where we were essentially.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: When we stopped last time.

CHAIRPERSON: Yes. Okay.

10 ADV LEAH GCABASHE: But this is why I say I am in your hands Chairman I am guided by you.

CHAIRPERSON: Okay no I see his counsel seems to want to say something and maybe let me hear what he has to say. It may or may not be necessary to adjourn for a few minutes to resolve the issue.

ADV LEAH GCABASHE: Thank you Chair.

CHAIRPERSON: Ja let me hear what he has to say.

ADV NOQABAYETHU BUTHELEZI: Thank you Chair. It is – it is I think it is a similar problem that keeps arising at the commission where a witness is served with a Rule 3.3 Notice and after having been served
20 with this Rule 3.3 Notice is then expected to respond to the contents or the paragraphs in the implicating statement that there is. Confusion somewhat exists between ourselves as to say are we here to answer to allegations that are contained in the statements of other witnesses or are we here on the strength of our own independent statement? And it is our understanding and our request that if Mr Thabethe is expected to

testify or give answers with regards to the evidence of another witness that may have potentially even implicated himself that he be given ample time to consider that so that we do not stall the commission when he is unable to provide answers or give context to questions that are not intended to ambush him in our understanding.

CHAIRPERSON: Yes well I use the term ambush.

ADV NQABAYETHU BUTHELEZI: I accept it Chair.

CHAIRPERSON: But it might not be appropriate.

ADV NQABAYETHU BUTHELEZI: Yes Chair.

- 10 CHAIRPERSON: It might not be appropriate. I think what we should do is – I should probably adjourn for something like five to ten minutes. Give both sides a chance to talk about – about the issue and then when I come back if it is resolved it is resolved – if I have to make any decision we can take it from there. Or if a decision must be made at another time then that would be fine. I think the – I think the – the difference really is here that certainly Ms Gcabashe wants to put to Mr Thabethe whatever version Mr Zwane has so that he can comment on it.

ADV NQABAYETHU BUTHELEZI: Yes.

CHAIRPERSON: That is for sure. That is 1.

- 20 2. The question would be whether Mr Thabethe should have a copy of that affidavit before he is asked or not or is it enough if he is told this is what you have said but Mr Zwane says this, what do you say? You know. And it may well be that at a practical level really having the copy or not might be neither here nor there.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: You know. So maybe let us – let me adjourn for five to ten minutes. It is twenty past now and then let us say at half past I will return unless in the meantime both sides have approached me in chambers. So if there is no approach I will just return.

ADV NOABAYETHU BUTHELEZI: Indebted to you Chair.

CHAIRPERSON: Okay.

ADV NOABAYETHU BUTHELEZI: Thank you.

CHAIRPERSON: Okay. You understand what is going on ne?

MR MBANA PETER THABETHE: Yes I do Chair.

10 CHAIRPERSON: Yes okay. I am going to adjourn then until half past. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Ms Gcabashe.

ADV LEAH GCABASHE SC: Thank you Chairman. Chairman I now have Reference bundle E to hand.

CHAIRPERSON: Before – well...

ADV LEAH GCABASHE SC: And all E is...

20 CHAIRPERSON: Well before that has the issue been sorted out?

ADV LEAH GCABASHE SC: Oh yes – yes it has Chairman.

CHAIRPERSON: Ja okay.

ADV LEAH GCABASHE SC: And I actually very quickly took Mr Buthelezi through.

CHAIRPERSON: Yes. What you had in mind.

ADV LEAH GCABASHE SC: The portions that are relevant to this stream.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Because there are other streams in that affidavit.

CHAIRPERSON: Oh okay.

ADV LEAH GCABASHE SC: Where – because he is responding to various 3.3's that he was given.

CHAIRPERSON: Yes. Okay. Okay.

10 ADV LEAH GCABASHE SC: I think they are satisfied Chairman.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: That I am not trying to ambush them.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: This commission would not ambush them.

CHAIRPERSON: Yes. And...

ADV LEAH GCABASHE SC: And...

CHAIRPERSON: Ja.

ADV LEAH GCABASHE SC: You are here to protect them in any event.

20 CHAIRPERSON: Yes okay alright. And the Chairperson should not have said ambush. Okay let – the Chairperson should have known that this counsel would not ambush anybody.

ADV LEAH GCABASHE SC: I try Chairman.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Chairman Reference bundle E has appeared and all it is really is that Reference bundle D was rather large

so we split it to make it easier for you to handle.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: The documentation.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Again Chairman I must say the only reason we have so many Reference bundles is because we have been struggling to get information.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Mr Thabethe had struggled. We managed
10 to put together what we now have.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: And we will be using it with all the other implicated parties and regular witnesses will be coming through.

CHAIRPERSON: Okay and you said this one we have already admitted?

ADV LEAH GCABASHE SC: I – Chairman just out of an abundance.

CHAIRPERSON: You will check.

ADV LEAH GCABASHE SC: Of caution.

CHAIRPERSON: Hm.

20 ADV LEAH GCABASHE SC: I do not know if you can formulate a sentence that says in the event that I now admit...

CHAIRPERSON: Well no that would cause more confusion. I think – I think somebody needs to check and then tomorrow morning especially if you are not going to be using it really. So tomorrow morning we can have clarity.

ADV LEAH GCABASHE SC: Thank you Chairman.

CHAIRPERSON: Okay. Alright.

ADV LEAH GCABASHE SC: Might I proceed?

CHAIRPERSON: Yes. Ja you may proceed.

ADV LEAH GCABASHE SC: Thank you. Mr Thabethe this is Mr Zwane's version that should he be given the opportunity he will be placing before this commission. It is just important for you to understand what he says because you worked in the same environment. The context of the first few questions really relates to what we have
10 been discussing all along. Section 38 of the PFMA which really sets out the responsibilities of an Accounting Officer. You are happy with that? We have dealt with that ad nauseam. You are happy with it.

MR MBANA PETER THABETHE: [Not speaking into the microphone].

CHAIRPERSON: You might wish to bring the microphone a little closer to you Mr Thabethe. Not too close but Ja. Ja thank you.

ADV LEAH GCABASHE SC: So the first thing I want to deal with is Mr Zwane's view where essentially agrees with you with respect to the responsibilities that fall within the jurisdiction of an Accounting Officer. He in fact draws a clear distinction between the responsibilities of an
20 Accounting Officer and those of a member of the Executive Council. And when I interpret what he says or when I read what he says he really is quoting the constitution. You know Section 133 of The Constitution which sets out the roles of the Executive Council. Are you happy with that proposition?

MR MBANA PETER THABETHE: No I am fine.

ADV LEAH GCABASHE SC: The next proposition is in his affidavit Mr Zwane says that the Mohoma Mobung Project was his brain child. And I have understood that to be your evidence. Please correct me if my understanding is wrong.

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE SC: Yes. Because your evidence is you found this process in place when you arrived?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: Correct. And we know that Mr
10 Jankielsohn himself told us about Mr Zwane talking to him about Mohoma Mobung. Good so no disagreement here. He also says that is Mr Zwane also says that he introduced the idea of Mohoma Mobung to the Executive Council of the Free State. This would be correct in your view as I understand your evidence. Because the development of policy is the prerogative of the executive. Are you in agreement with that proposition?

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE SC: Thank you. Again when I look at what he
20 says he really is restating what is in Section 125 of the constitution in respect of the development and implementation of policy by the National Executive or hereby the Provincial Executive in this particular instance. What I will interrogate with you is a fine point around the implementation what we call implementation of the mandate of the department. But I will get to that in a minute. So that is really the only area that I want us to – to deal with in a little more detail. Mr Zwane

also says that the EXCO the Executive Council gave him the go ahead when he presented Mohoma Mobung as the broad project during his budget speech. You will agree that this was what he did?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: Ja. Then Mr Zwane clearly states that after that process the implementation of the project lay in the hands of the Accounting Officers and he clarifies. These are officers who have the experience and the knowledge and specialisation to implement what has been agreed at policy level. You would agree with that as well?

10 MR MBANA PETER THABETHE: Ja that is correct. I might maybe come back to it.

ADV LEAH GCABASHE SC: That is fine. In fact I am going to break that little concept down a little more because there are really two propositions to what Mr Zwane says in this particular paragraph of his affidavit. The first relates to who takes responsibility for the implementation of policy. We are going to debate that with you. Then the second speaks to the skills set that is required of an Accounting Officer and that that particular individual brings to the job that they have been tasked with as Accounting Officer. I think the second one is
20 a quicker one and an easier matter to deal with Mr Thabethe. Because I believe you have already agreed that the position of Accounting Officer requires a certain level of skill and knowledge. Am I correct?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: And it is on this basis that you were appointed in fact to the position of HOD/Accounting Officer because

you had skill and knowledge. Yes?

MR MBANA PETER THABETHE: That is my understanding Chair.

ADV LEAH GCABASHE SC: That is what I have understood you to say as well. And you also agree this is really your evidence that when you arrived there were two HOD's. One for the Department of Agriculture and one for the Department of Rural Development. That is correct?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: That is what he says because he says the Accounting Officers in the plural and that is how I interpret that. That
10 those officers have certain responsibilities. Yes? Then we get to the second part of that broader proposition. Because Mr Zwane's understanding of the implementation of the project is that with respect to the implementation of Mohoma Mobung that development framework that they sorted out at a higher level. That responsibility sits with the Accounting Officer. I would like your view on that.

MR MBANA PETER THABETHE: Ja. Chair I may want to refer back to a document that we have spoken to. I think...

CHAIRPERSON: Ja.

MR MBANA PETER THABETHE: The Exhibit HH the court record I am
20 not sure which document has the charge sheet.

CHAIRPERSON: Oh you mean you are not sure which lever arch file has got the charge sheet?

MR MBANA PETER THABETHE: Which – which has the charge sheet but I would – could quickly ...

CHAIRPERSON: You want to have a look at that here in – before

responding?

MR MBANA PETER THABETHE: If I could – if I could be assisted.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Because I would want to start there.

CHAIRPERSON: Yes they might be able to ...

MR MBANA PETER THABETHE: In giving that response.

CHAIRPERSON: Ja.

MR MBANA PETER THABETHE: In my document I can find it much quicker Chair.

10 CHAIRPERSON: Ja okay. Okay.

MR MBANA PETER THABETHE: So that then they can help me to find it on the official document.

CHAIRPERSON: Yes okay.

MR MBANA PETER THABETHE: On the – on the court file it was I think it is page 145.

CHAIRPERSON: On the court file?

MR MBANA PETER THABETHE: On the court file page 145.

CHAIRPERSON: I do not know. Do they have it? Do you have the court file?

20 ADV LEAH GCABASHE SC: We do have the court file.

CHAIRPERSON: Oh okay.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: So I think that will give you ...

MR MBANA PETER THABETHE: Ja but it is not the paginated.

CHAIRPERSON: Not the paginated court file?

MR MBANA PETER THABETHE: Ja but it is the – it is the court file page 145.

CHAIRPERSON: Okay. Oh the – page 145 is not a paginated 145?

MR MBANA PETER THABETHE: Not the paginated it is the original court file page number.

CHAIRPERSON: Oh okay.

MR MBANA PETER THABETHE: Because I am – I understand they are still on the documents.

CHAIRPERSON: Yes okay.

10 MR MBANA PETER THABETHE: You will be able to find it.

ADV LEAH GCABASHE SC: Chairman with your leave might we proceed?

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Because it should be the same document.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: We will just give it the proper reference number.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: For record purposes.

20 CHAIRPERSON: Ja okay. That is fine.

ADV LEAH GCABASHE SC: While – as soon as we find it.

CHAIRPERSON: Yes Okay.

MR MBANA PETER THABETHE: Yes. Now Chair this was the charge sheet.

CHAIRPERSON: In the criminal case?

MR MBANA PETER THABETHE: In the criminal case.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Now I want to go specifically in responding to that question to that page 145. I think it is item number 24.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: Which says:

“Thabethe’s request was approved by the Provincial Executive Council.”

10 Now that is what I wanted to ...

CHAIRPERSON: To refer to?

MR MBANA PETER THABETHE: To refer to that I was charged to implement the decision of the Executive Council.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: That was on the charge sheet of court.

CHAIRPERSON: Yes, yes.

MR MBANA PETER THABETHE: That I received approval.

CHAIRPERSON: Ja.

20 MR MBANA PETER THABETHE: And I was charged for implementing

CHAIRPERSON: A decision of council.

MR MBANA PETER THABETHE: The decision of council. Right now I am coming back to the – to the question Chair.

ADV LEAH GCABASHE SC: Can I just get clarity on what you have just said? So you are talking about that EXCO resolution of the 13

June 2012?

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE SC: Which said you should go ahead and implement.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE SC: And there were a few things including finding the R84 million that was lacking and including – and getting the FDC?

MR MBANA PETER THABETHE: Yes.

10 ADV LEAH GCABASHE SC: To assist you one way or the other?

MR MBANA PETER THABETHE: Right.

ADV LEAH GCABASHE SC: So that is a document we have spoken about already.

MR MBANA PETER THABETHE: Exactly.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: the particular decision as he puts it.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Chairman. Just to give context.

MR MBANA PETER THABETHE: Yes.

20 CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Thank you.

CHAIRPERSON: Once we know where in the bundles it is then as you said we can just make reference to it to say where it is to be found. So the reader of the transcript can relate – can find it easily. Okay alright.

MR MBANA PETER THABETHE: Ja. Chair I am – I was not

specifically referring to the – to the EXCO approval as a document but this is an extract in the ...

CHAIRPERSON: From the minutes of an EXCO meeting?

MR MBANA PETER THABETHE: No from the – from the court charge sheet.

CHAIRPERSON: Yes, yes.

MR MBANA PETER THABETHE: That it was a charge.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: That I was implementing.

10 CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: An approval of the Executive Council.

CHAIRPERSON: Yes ja.

MR MBANA PETER THABETHE: So I am just – I am just mentioning that part. We did discuss the document itself where the Executive Council had approved.

CHAIRPERSON: Ja. Yes okay, okay.

MR MBANA PETER THABETHE: Yes. All I am referring to is that I got charged.

CHAIRPERSON: Yes.

20 MR MBANA PETER THABETHE: For implementing the decision of the Executive Council.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: It is in the charge sheet.

CHAIRPERSON: Yes. Okay.

MR MBANA PETER THABETHE: So – may – sorry.

CHAIRPERSON: I think I must allow you to finish I am just thinking that of course if you – if the Executive Council made a decision that you must do something illegal you would not be expected to implement that, is it not?

MR MBANA PETER THABETHE: Yes Chair. As it came that time.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: It was not.

CHAIRPERSON: Ja no, no I am just – it is just that the way you were emphasising the point that you were charged for implementing.

10 MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Decision of the Executive Council. I got the impression that the point you were seeking to make is how could I be charged for implementing a decision of the Executive Council. So that is the context in which I was – I was making that remark.

MR MBANA PETER THABETHE: I hear Chair.

CHAIRPERSON: Yes, yes.

MR MBANA PETER THABETHE: I wanted to refer back to the comment she asked me to respond.

CHAIRPERSON: Yes okay. Yes.

20 MR MBANA PETER THABETHE: That in the affidavit of Mr Zwane was that he was not responsible for implementation. The officials are which I accepted and agreed.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: The implement – the decision is taken and we are responsible for the implementation which I have already

said I agree that we are responsible for implementation. Thank you Chair.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Mr Zwane – I beg your pardon. Mr Thabethe you are not Mr Zwane.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Well previously I do not know if it was you but previously when an evidence leader kept on calling a witness by somebody else she said they might have to pay. Must have been Ms Hofmeyr who kept on calling some witness by somebody else's name. Yes okay.

ADV LEAH GCABASHE SC: The – we have too many affidavits we deal with Chairman.

CHAIRPERSON: Hm. But you know counsel has no problem with paying.

ADV LEAH GCABASHE SC: I am coming to get some cattle from you so I can pass them on to somebody Mr Thabethe.

CHAIRPERSON: Yes let us continue.

ADV LEAH GCABASHE SC: So if we then go back to what you have said in your evidence that this framework policy framework developed.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE SC: My question is, as it was developing did you consult Mr Zwane in his capacity as the MEC for agriculture? Did he give you input on that development? Because I am just trying to understand what implementation in these circumstances might mean.

That is really what I am trying to understand.

MR MBANA PETER THABETHE: Ja Chair. We had a very long debate on this matter. I remember we wanted to decide whether it was a strategy or a concept.

CHAIRPERSON: Oh that is your – when you say we is it yourself and Mr Zwane or yourself and other officials in the department?

MR MBANA PETER THABETHE: No, no in the commission. We did debate it in the commission.

CHAIRPERSON: Oh outside of the hearing or in the hearing?

10 MR MBANA PETER THABETHE: In the hearing Chair.

CHAIRPERSON: Oh okay. It has been a long time. Since then I have had the evidence of many witnesses – other witnesses. Yes okay.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: So what – so what is the point you want to make?

MR MBANA PETER THABETHE: Yes. What I am saying Chair we are going back there again.

CHAIRPERSON: Well it might be necessary sometimes just to refresh our memory and to reconnect but it depends. But I see Ms Gcabashe is shaking her head to say she – we are not going back. So I think I will
20 allow her to ask the question again and then see if you can answer it.

MR MBANA PETER THABETHE: Okay thanks Chair.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Mr Thaabethe all I am asking is as the whether we call it a strategy, whether we call it a development framework as that was being refined – this is what I understood of your

evidence that you had to work with it. Did you get input from your political principle in your department? That is all.

MR MBANA PETER THABETHE: Ja Chair we made inputs. We made technical inputs into his idea. My understanding is that it is us who were making input to refine it so that technically it becomes implementable.

CHAIRPERSON: I do not – I do not know you – in case it is not clear you might have to make it clear but it may be that it was clear. My understanding of your question was that it related to – related more to
10 refining implementation or how it would be implemented at as opposed to the concept but I may have misunderstood. But I think the answer seems to relate to the concept.

ADV LEAH GCABASHE SC: I – this is why I was just going to ask.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: For clarity sake Mr Thabethe. If what you are talking about the refinement you are talking about the inputs you gave Mr Zwane whether those were before the budget speech where the legislature heard about it and before he told his EXCO colleagues about it. Because that would just clarify the matter. So your inputs
20 were before he took steps to put the policy position to his colleagues?

MR MBANA PETER THABETHE: Yes Chair. The policy position ends when he goes and presents a budget speech and presents the projects to the legislature for implementation and the allocation of the budget. That is where we then come in and make inputs because that is his policy speech that he presents to the legislature. Then once that has

been concluded then our responsibility is then the implementation of what has been made policy now.

CHAIRPERSON: So the input that you are talking about that you made to his concept is input that was made prior to him presenting his budget speech?

MR MBANA PETER THABETHE: That is correct.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Thank you Chairman. Now because this started out as Mohoma Mobung you eventually reshaped the
10 implementation by selecting the Vrede Dairy Project as a mega project. Is that part of implementation or just that selection of Vrede as a mega project was that part of implementation and therefore part of policy or was it part of the everyday application that kind of implementation? Just help me understand?

MR MBANA PETER THABETHE: Ja Chair the Vrede Dairy was one of the mega projects of Mohoma Mobung it was not the project. There were other projects under the same concept that were being implemented. So it – the Mohoma Mobung cannot only be referred to Vrede Dairy.

20 ADV LEAH GCABASHE SC: Mr Zwane – Mr Thabethe

CHAIRPERSON: I think ...

ADV LEAH GCABASHE SC: Chairman.

CHAIRPERSON: You are close to paying.

ADV LEAH GCABASHE SC: [African language]. Mr Thabethe I really am not trying to trick you. I really am simply trying to understand

implementation as you experienced it there. So it is a matter of understanding what it is that you and the officials in the department did once the Mohoma Mobung broad concept had been adopted by the legislature. Because once that broad concept had been adopted you then looked at various projects.

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: I have no difficulty with that. But you also in looking at various projects selected the Vrede Dairy Project for special attention. Am I correct?

- 10 MR MBANA PETER THABETHE: Chair I will not say necessarily special attention but it was one of the key projects.

CHAIRPERSON: Maybe let – let me see if I can

ADV LEAH GCABASHE SC: Good.

CHAIRPERSON: Let me see if I can ask you this question. The decision that there must be Vrede Dairy – there must be the Vrede Dairy Project. The making of that decision I take it was part of the implementation of the policy, is that correct?

MR MBANA PETER THABETHE: That is correct Chair.

- 20 CHAIRPERSON: And that decision was made by the officials that is yourself and the department. The people who were meant to implement?

MR MBANA PETER THABETHE: Ja Chair that is correct.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: What is true is that we – from all the presentations that we have made on project to the Executive Council

for this commission only that one was singled out.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: But it is not the only projects that we go to the Executive Council.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: And request approval.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: I understand that for this specific reason we are responding but my understanding is that it should not
10 look like when we went to the Executive Council we only went to present one project which was the Vrede Dairy no it was not there were others which we had done so.

CHAIRPERSON: Well even if you had gone there for one I mean in principle why should that be wrong you know. So I do not think that is Ms Gcabashe's concern.

MR MBANA PETER THABETHE: Okay.

CHAIRPERSON: Ja. Yes.

ADV LEAH GCABASHE SC: Thank you Chairman. Mr Thabethe I would just like to move on because there are a couple of other things
20 that I want to place on record in relation to what Mr Zwane has to say. So he says that after the presentation to the legislature the project was handed over to the department and he did not interfere with the duties of the administrators whose responsibility it was to implement the Mohoma Mobung Project. Would you agree with that?

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE SC: What he did however do was by way of example assist in the identification of beneficiaries?

MR MBANA PETER THABETHE: Ja Chair after the projects is approved for implementation we do the implementation. Our responsibility is to report back to him on progress. That is what we then do. If for an example we have difficulty like in the issue of identifying beneficiaries we would go to him and say, this is the issue that we may need you to assist us to do where – as part of our report back to him.

- 10 CHAIRPERSON: Well I just note the reference to interference that he says he did not interfere. And I note what you have just said. I do not know what he regards as interference and what he does not regard as interference. But from what you say it is clear that – and one would expect this to be the case that you would report back to him on implementation.

MR MBANA PETER THABETHE: That is correct Chair.

- CHAIRPERSON: To see how is the implementation process and I take it that as you report back to him on progress he would have – he would raise questions where he thinks there should be questions and maybe
20 he would even make suggestions. Is that not so?

MR MBANA PETER THABETHE: Chair that is correct because he needs to have a full understanding so that when he goes to the legislature and questions are raised he should be able to respond to those questions.

CHAIRPERSON: And it may well be but you might not agree with this.

It may well be that he would also issue instructions on implementation.

MR MBANA PETER THABETHE: Chair my understanding of interference is – my understanding is that of the PFMA. When he gives you instructions to implement things that are not in line with policy.

CHAIRPERSON: Yes. It might not – the issue might not arise so we – if it arises we can go back to it.

ADV LEAH GCABASHE SC: Thank you Chairman. So the example I had given was in identifying beneficiaries he assisted in that regard?

MR MBANA PETER THABETHE: That is correct Chair.

10 ADV LEAH GCABASHE SC: Did he assist with respect to the selection of a strategic partner?

MR MBANA PETER THABETHE: Chair no, no. The – I think we have – we had gone though that also how the strategic partner was selected.

CHAIRPERSON: Yes but the – how the strategic partner was selected is one thing the question whether he had an input on the selection might be another. So the question is whether he assisted in this selection of the strategic partner?

MR MBANA PETER THABETHE: Ja. Chair I would not know because the strategic partner was not selected by us. If I am referring to

20 Estina.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: It was selected by Paras. So I would not know.

CHAIRPERSON: Yes Hm. Okay.

ADV LEAH GCABASHE SC: Just for the record my understanding of

your evidence is that the strategic partner was Paras?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: And Paras then selected Estina. But the strategic partner was Paras.

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE SC: Thank you. Now Mr Zwane goes on to say that he was not required to approve the appointment of Estina as the implementing agent. Is that correct? And please this is important. He was not required to approve the appointment of Estina as the
10 implementing agent.

MR MBANA PETER THABETHE: Ja I am – it is a very tricky question Chair.

CHAIRPERSON: I think I can understand.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Maybe let me ask from – let me ask a related question. As a matter of fact do you know whether he approved the selection of Paras as a strategic partner irrespective of whether it was his – he was required or not. Do you know whether as a matter of fact he did give approval?

20 MR MBANA PETER THABETHE: Chair as part of the Executive Council.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: He has.

CHAIRPERSON: Okay.

MR MBANA PETER THABETHE: Because that agreement and

approval.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Was done by the Executive Council and he was in the Executive Council.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: So he was part of that approval.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: By the Executive Council.

CHAIRPERSON: Okay. I - I think you - you would have picked up
10 Ms Gcabashe that for me what I was not sure about the required part
was - was whether it meant he was required by law or not. So the -
that is the part that was in my mind that is why I put that question.

ADV LEAH GCABASHE SC: Thank you Chair. Brought clarity - your
question did bring clarity.

CHAIRPERSON: Hm, okay.

ADV LEAH GCABASHE SC: The - the next portion then is in respect of
the payment of funds to any creditor or recipient. Now again he was
not required - and this is the language you used if I - my recollection
serves me well. To approve the payment of any funds to any creditor or
20 recipient that is an administrative function.

MR MBANA PETER THABETHE: Chair it - that - that becomes the
responsibility of the administrators.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: To ...

CHAIRPERSON: So - so do you accept his version that he was not

required to approve any funding?

MR MBANA PETER THABETHE: No. You see there are two things Chair. When - when he goes to the legislature he request the legislature to approve the budget ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Of the department which includes the Vrede Project.

CHAIRPERSON: Yes, yes.

MR MBANA PETER THABETHE: Once that approval is given to him ...

10 CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: In - in implementing that project.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: That automatically gets translated to the administrators to implement.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: So it does not play a role anymore in terms of approval once he gets the approval at the legislature in terms of the budget allocation.

20 CHAIRPERSON: But also that means that when he goes to the legislature he is the one who is saying please approve this budget ...

MR MBANA PETER THABETHE: Yes and ...

CHAIRPERSON: Which has got these components?

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Therefore and - and he cannot say to the legislature approve this unless he is happy with it. He is himself approving of it.

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Yes. So - but - but the point you are making is approval within that context he gets involved?

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: But not outside of that?

MR MBANA PETER THABETHE: Out - outside. That is correct Chair.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Then his view is that:

10 “The Mohuma Mobung Project was a great idea and
 a flagship project that would have put the Free
 State Province on the map had it been executed
 properly.”

 Great project. It would have put the Free State Province on
the map had it been executed properly. That is his view. Do you share
that view?

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE SC: The implication ...

MR MBANA PETER THABETHE: May ...

ADV LEAH GCABASHE SC: Yes.

20 MR MBANA PETER THABETHE: Can we check something Chair?

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: If - if it had been properly executed ...

CHAIRPERSON: Ja and properly executed means properly
implemented?

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Huh-uh.

MR MBANA PETER THABETHE: If - if it was given an opportunity to be executed that - that will be my version to that statement.

CHAIRPERSON: So you - you seek to qualify your answer?

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: To say you say if it was - if it had been given a proper opportunity to be executed?

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Is your position that it was not executed or it was
10 executed but was not given enough time?

MR MBANA PETER THABETHE: Yes. That is correct Chair.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: I am not sure which of the two - Chairman I thought you put two ...

CHAIRPERSON: Ja.

ADV LEAH GCABASHE SC: Different propositions to - to Mr Thabethe.

CHAIRPERSON: Yes I did. I think - I think he agreed to both but let us - let us help because it could cause confusion.

MR MBANA PETER THABETHE: Hm.

20 CHAIRPERSON: As I understand it what - what you are - what you are saying you are - you admit that it was executed but you are saying it was not given a proper opportunity to be executed?

MR MBANA PETER THABETHE: To be executed.

CHAIRPERSON: Which seems to suggest to me that more time - you are saying more time should have been given to it.

MR MBANA PETER THABETHE: No, no. Chair - Chair what - what I am trying to say is that because when - when the project was being implemented a problem started from the initiation when - when it was started then problems came. So it never had an opportunity to be implemented properly.

My understanding is that he is referring to that. He - he - because the other version could have been if - if the official could have implemented it properly which is not my understanding because if - if that was the case then it is a different story.

10 CHAIRPERSON: Well you see he - he might not be particular with how he is formulating it but the one option - the one proposition could be the officials who were supposed to implement it failed to implement it properly. That is why we have ...

MR MBANA PETER THABETHE: Yes, yes.

CHAIRPERSON: We have this problem.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Another proposition would be to say the opportunity to - to implement it was not a proper opportunity. So some execution was tried but it did not work well because there was not a proper or
20 enough opportunity but from what you are saying it seems you are saying it was not given an opportunity from the beginning. Is that right?

MR MBANA PETER THABETHE: Chair I am - I am agreeing with your second option.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: That is why I was trying then to correct ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: To - to amend ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: The statement to say.

CHAIRPERSON: Ja.

MR MBANA PETER THABETHE: It is not because of the failure of the officials ...

10 CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: But it was because of the opportunity that was not granted for the project to be implemented.

CHAIRPERSON: Hm.

ADV LEAH GCABASHE SC: Maybe you can just clarify what you mean by the project was not given the opportunity to develop in the manner in which you had envisaged it would. Maybe that is the only area where I - I do not understand you. What opportunity?

MR MBANA PETER THABETHE: Chair, we - we had intended to deal with this earlier on. That when we were starting the project the - the -
20 there were so many articles in the media. You will remember it was - we were beginning to implement the project when there was the Waterkloof ...

CHAIRPERSON: The landing?

MR MBANA PETER THABETHE: The landing ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: And it was that time that everything came to a halt.

CHAIRPERSON: Why did anything have to come to a halt about Vrede because of the landing - Waterkloof landing?

MR MBANA PETER THABETHE: Exactly Chair.

CHAIRPERSON: Ja.

MR MBANA PETER THABETHE: Because that - that was the time when the first article about Vrede Dairy came to be and - and you will remember the - the testimony of the first witness that came in here
10 referred to - to that and all the investigations that came thereafter was based on that newspaper article which was on Mail & Guardian.

So from that time there was never an opportunity to implement because it was investigation after investigation. So it never had that opportunity to - to have the time to implement it.

ADV LEAH GCABASHE SC: Mr Thabethe I want to challenge that thinking but I will do so tomorrow on the basis of the monies that were advanced to make sure that this dairy project got off the ground but it is a specific issue because we look at how much money was put in. We look at the quarterly reports that were present - presented to the
20 officials and then make an assessment. I think ...

MR MBANA PETER THABETHE: That is ...

ADV LEAH GCABASHE SC: On where things went horribly wrong.

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: I think if we generalise now and look at the period 13 June 2010 to roughly 30 April 2013 which is the time of

the Waterkloof landing.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE SC: You had about a year. I do not want us to generalise about what could have been done in that - in that period. We will look at the numbers and the allocations and use those to determine what could have been done.

MR MBANA PETER THABETHE: Ja.

ADV LEAH GCABASHE SC: If - if that suits you.

MR MBANA PETER THABETHE: Ja. Chair - Chair ...

10 CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: What - what I am trying to - to explain is that this was a three year project.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: It stalled in the first year ...

CHAIRPERSON: Ja.

MR MBANA PETER THABETHE: Of - of its implementation.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: Hence the statement that if it was given the opportunity ...

20 CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: To - to be implemented it would have been one of the greatest projects.

CHAIRPERSON: Well Ms Gcabashe said you - she will deal with this tomorrow ...

MR MBANA PETER THABETHE: Good.

CHAIRPERSON: But I wanted to ask you why do you say the fact that somebody wrote an article in the newspaper about Waterkloof landing or and/or about Vrede - Vrede Farm that takes away from you the opportunity to do your job?

MR MBANA PETER THABETHE: Ja. Chair ...

CHAIRPERSON: They did not come physically - to physically prevent you from doing your work about Vrede.

MR MBANA PETER THABETHE: Yes. That - that is - that is correct Chair but that triggered a lot of problems. I think if - if when we come
10 to it then I will explain. One - one of the issues - one of the basis when - when that happened National Treasury ...

CHAIRPERSON: The writing of an article in the newspaper?

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Ja.

MR MBANA PETER THABETHE: The - the investigation that was done by National Treasury was on the basis of the newspaper article and they mentioned that in their report.

CHAIRPERSON: Yes and so what?

MR MBANA PETER THABETHE: And then ...

20 CHAIRPERSON: They - they can investigate. You carry on with your job. If they say we want to have two hours with you tomorrow to ask you about this. You say okay I will make time. You see them for two hours. They want to see somebody else. You say the staff is available. You can talk to them. After you are had done you continue. You - you do your job.

MR MBANA PETER THABETHE: That - that is correct Chair but ...

CHAIRPERSON: So how does it - how does it take away from you the opportunity to implement which you otherwise had before somebody wrote in the article?

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Wrote an article.

MR MBANA PETER THABETHE: Chair National Treasury wrote a letter to hold the project. The letter was ...

CHAIRPERSON: Yes.

10 MR MBANA PETER THABETHE: We - we received a letter from the National Department from Agriculture ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: Saying we - they - we should not be allowed to proceed implementing the project with the money that was allocated.

CHAIRPERSON: That - that can I understand. When did that happen?

MR MBANA PETER THABETHE: It - it was - Chair during - it was not ...

20 CHAIRPERSON: Well we - Ms Gcabashe just reminded you that the Waterkloof landing was in April 2013. So - so ...

MR MBANA PETER THABETHE: Yes and - and ...

CHAIRPERSON: So when was this?

MR MBANA PETER THABETHE: Until that time Chair everything was progressing well.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: In terms of implementation. In terms of the infrastructure that was on the ground.

CHAIRPERSON: Yes. So you had had a year?

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Yes. More or less.

MR MBANA PETER THABETHE: That - that happened very well.

CHAIRPERSON: Yes, okay.

MR MBANA PETER THABETHE: Now after the landing ...

CHAIRPERSON: Hm.

10 MR MBANA PETER THABETHE: We - we were then beginning to enter into the - the second year ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: And - and that is where the problem started.

CHAIRPERSON: Yes, but when did the letter from National Treasury or did you say National Department of Agriculture?

MR MBANA PETER THABETHE: National Department of Agriculture.

CHAIRPERSON: Yes.

20 MR MBANA PETER THABETHE: If - if I am not mistaken Chair it was June/July.

CHAIRPERSON: June July 2013?

ADV LEAH GCABASHE SC: It is in August. It is an August letter. It is an August letter.

CHAIRPERSON: It is August. August 2013?

ADV LEAH GCABASHE SC: We have a witness who will be dealing

with that ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Next week Tuesday Chairman.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: From the department.

CHAIRPERSON: Yes. So August 2013?

MR MBANA PETER THABETHE: Yes. August 2013 was the final
10 withdrawal. They ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: They write you ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Before with an intention to withdraw
...

CHAIRPERSON: Oh.

MR MBANA PETER THABETHE: But already the letter from National
Treasury instruct Agriculture ...

CHAIRPERSON: Ja.

20 MR MBANA PETER THABETHE: Not to allow us to proceed had
already been written.

CHAIRPERSON: Okay, but what you - what you do say is so is the
position therefore that you are saying that what took away the
opportunity to implement the project was the instruction to stop ...

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Using the fund? Not the newspaper article. The newspaper article brought the issue to the attention of the world.

MR MBANA PETER THABETHE: The attention - okay. That is correct Chair.

CHAIRPERSON: But it is not - it is - it is something else. Not that one.

MR MBANA PETER THABETHE: Not, not ...

CHAIRPERSON: Ja.

MR MBANA PETER THABETHE: That is correct Chair.

10 CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: And just for further clarity Chairman. The amount that had been allocated by the National Office that is the CUSP. We have talked about the CUSP Grant ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: And - and we have a witness who will deal with it in detail on Tuesday.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: That was 53 million.

CHAIRPERSON: Yes.

20 ADV LEAH GCABASHE SC: Of the 53 million you know Mr Thabethe you had already spent 24 million ...

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: And what the National Office said was the balance should be allocated to one of the other projects.

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE SC: Take it away from this one ...

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE SC: And they gave you specific reasons why they were asking you to do that and you know that.

MR MBANA PETER THABETHE: That is - that is correct Chair.

ADV LEAH GCABASHE SC: We are going to get to that letter Chairman because the reasons had to do with whether they met the - the Department of Agriculture and Rural Department met the conditions that were attached to that 53 million.

10 CHAIRPERSON: Ja.

ADV LEAH GCABASHE SC: In respect of what they were doing at Vrede.

CHAIRPERSON: Hm.

ADV LEAH GCABASHE SC: So it actually has nothing to do the Waterkloof landing.

CHAIRPERSON: Hm.

ADV LEAH GCABASHE SC: I agree with you Chairman.

CHAIRPERSON: Hm.

20 ADV LEAH GCABASHE SC: Please Mr Thabethe. It has nothing to do with the newspaper article. Please Mr Thabethe.

MR MBANA PETER THABETHE: Ja Chair - Chair ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Can I - can I go back to that?

CHAIRPERSON: Ja.

MR MBANA PETER THABETHE: Remember the investigation by

National Treasury is quoting that newspaper article. Hence I am referring to it.

CHAIRPERSON: Yes, but just because they are quoting that article does not mean it is because of that article that you were not given an opportunity to - to implement you know. The article brought up what it brought up. If you say we were instructed to stop at a time when we were still implementing and had we been given a chance to continue.

You would have seen what would have happened. You would have come up with something very beautiful that is something else.

10 MR MBANA PETER THABETHE: That ...

CHAIRPERSON: Okay.

MR MBANA PETER THABETHE: That is correct Chair. Thank you.

CHAIRPERSON: Alright.

ADV LEAH GCABASHE SC: Now my understanding again is that it is the department that identified the possibility of establishing a processing plant. Now this is the milk processing plant in the province. It is part of the Mohuma Mobung thinking. Am I correct?

MR MBANA PETER THABETHE: That is correct Chair.

20 ADV LEAH GCABASHE SC: And your version is that Mr Zwane would have been part of this at that strategic policy level - part of that discussion?

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE SC: And the identification of the Vrede Dairy Project as a mega project again Mr Zwane would have been part of in terms of the strategic decision. Is this your version?

MR MBANA PETER THABETHE: Yes. Chair the - the decision to add value comes even beyond the Free State. It comes from the NDP document itself. The National Development Plan to say provinces like the Free State are doing well in primary agriculture but we are not doing much in terms of agroprocessing and value adding.

Hence that strategic decision flows through like that. That - That is what is also agreed in the Free State Growth and Development Plan to say agriculture must begin also to do agroprocessing and add value to the products. Hence when we then presented that idea it was
10 acceptable that this is what we - we are supposed to do. Therefore I agree Chair.

ADV LEAH GCABASHE SC: Then at paragraph 42 of your 2018 affidavit you state that the agreements relating to the Vrede Dairy Project were approved by the Executive Council and Mr Zwane who then was the MEC for Agriculture. That is your evidence.

MR MBANA PETER THABETHE: That is - that is ...

ADV LEAH GCABASHE SC: Correct?

MR MBANA PETER THABETHE: Correct.

ADV LEAH GCABASHE SC: And this is actually what you say ...

20 MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: In your affidavit?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: Then in your 2019 affidavit which you have made for the Commission at paragraph 37.5 page 13 you state that you did not perform any function or take a decision in respect of

the implementation and execution of the Vrede Dairy Project without having followed the prescribed departmental processes, number one.

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: Or without having first obtained the required approvals and authority from the MEC Agriculture and Exco. That is correct?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: That is what you say in your statement.

MR MBANA PETER THABETHE: That is correct.

10 ADV LEAH GCABASHE SC: Now I take it that when you speak about the approvals and the authority of the MEC for Agriculture you would there be referring to Mr Zwane ...

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: And then when she did take over you would there be referring to Ms Qabathe?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: I will just leave it at those two because they really were there during the period we have been debating. So that says to me that you did one of two things. You either asked them
20 for guidance as you were implementing or you asked for instructions as you were implementing. Which of the two was it?

MR MBANA PETER THABETHE: Chair when - when we sought approval of the Executive Council it is the MEC that goes to the Executive Council because the MEC is a member of the Executive Council. So we - we generate the - the submission to the MEC. If the

MEC agrees then he goes and he presents it to the Executive Council for approval.

Hence I am saying if he would not have agreed he would not have gone to present it to the Executive Council. Hence I am saying the way we - we putting it there.

CHAIRPERSON: Yes but the question is whether you asked for guidance or asked - Ms Gcabashe says for an instruction but I guess it could also be said approval but she said instruction. So what did you seek from them? Was it guidance or an instruction?

10 MR MBANA PETER THABETHE: It - it is guidance Chair.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: You also state in your 2018 affidavit at paragraph 51.8 that:

“Mr Zwane recommended to the Provincial Treasury the release of the required funding because it was necessary to shift funds between projects as provided for in the 2012/2013 budget of the department.”

CHAIRPERSON: I am sorry Ms Gcabashe.

20 ADV LEAH GCABASHE SC: Yes sir.

CHAIRPERSON: Please do not forget that question. I just want to ask something on the paragraph that you just read to Mr Thabethe a few minutes ago. You see Mr Thabethe you have just said that when you asked what you sought from the MEC and Exco was guidance but that is not what paragraph 37.5 says which is the paragraph that

Ms Gcabashe just read. It says:

“I did not perform any function and did not take any decision ...”

Listen to this:

“...in respect of implementation and execution of the Vrede Dairy Project. Without ...”

I leave out other things.

“...having first obtained the required approvals and authority from the MEC Agriculture and Exco.”

10 Is there something I am missing there when I compare with what you have just said? Maybe I am missing something. Maybe the two can be reconciled.

MR MBANA PETER THABETHE: Ja. Chair - Chair she gave two options and ...

CHAIRPERSON: Instruction or guidance, yes.

MR MBANA PETER THABETHE: Guidance ...

CHAIRPERSON: And you said guidance.

MR MBANA PETER THABETHE: And I understood you putting the third one.

20 CHAIRPERSON: Yes, but I - you did not ...

MR MBANA PETER THABETHE: I ...

CHAIRPERSON: I wanted to focus on what she put to you. The instruction and guidance ...

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: And you said guidance.

MR MBANA PETER THABETHE: Yes, yes.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: It is - it is more of guidance because what we request from him is approval ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Because the MEC's responsibility is oversight ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: When we are doing implementation.

10 CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: That - that is the responsibility of the - of the MEC.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: So the - the - my statement is actually saying I would not decide to implement a project ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: Until such time that the MEC and the Executive Council agrees with the project.

CHAIRPERSON: Yes.

20 MR MBANA PETER THABETHE: That is what my statement is actually saying.

CHAIRPERSON: Yes. Well that - that may be right but that might not - that is not the same as guidance. You remember you just said a few minutes ago ...

MR MBANA PETER THABETHE: Ja.

CHAIRPERSON: You would be seeking guidance.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: If you seek guidance you are not seeking necessarily approval. You - you - guidance you can disregard if you have good reasons. You know but if you seek approval if you do not have approval you cannot proceed. Is it not?

MR MBANA PETER THABETHE: That - that is correct Chair.

CHAIRPERSON: But guidance is not the same as approval. Guidance is I think this is how you should handle it but you are not bound. You
10 can - you can reflect on it.

MR MBANA PETER THABETHE: Hm.

CHAIRPERSON: In the end you might decide no, no. That is going to be problematic and the person who gives the guidance understands that it is guidance. It is not an instruction. That is my understanding of the two.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Do you have the same understanding?

MR MBANA PETER THABETHE: I - I did Chair.

CHAIRPERSON: Hm.

20 MR MBANA PETER THABETHE: If - if approval would have been one of the options ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: Then it would be the correct one. I - I know Chair we have - I have been in trouble with the evidence leader of not answering the question.

CHAIRPERSON: Ja, ja. So you - so you say if - if the options you were given included approval you would have chosen approval?

MR MBANA PETER THABETHE: Approval. That is correct Chair.

CHAIRPERSON: Not guidance?

MR MBANA PETER THABETHE: Not guidance, yes.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Because - because guidance must be in my understanding could be overarching over - also approval but the - the most correct one is approval.

10 CHAIRPERSON: Of course what you could have said is none of the above. It is approval. You could have said that. Is it not?

MR MBANA PETER THABETHE: Yes Chair. I have - I have trouble before with the evidence leader of not answering.

CHAIRPERSON: I - I can see that you are more scary of being in trouble with - with Counsel than with me. So - so you - you are saying therefore now when you approach them you were seeking approval?

MR MBANA PETER THABETHE: Approval. That is correct Chair.

CHAIRPERSON: Not - not guidance?

MR MBANA PETER THABETHE: That is correct Chair.

20 CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: And - and we are still talking about the implementation of a resolution taken by Exco. Am I correct?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: I just want to - I do not want to get things mixed up.

MR MBANA PETER THABETHE: That is - that is correct.

ADV LEAH GCABASHE SC: That is what we are talking about?

MR MBANA PETER THABETHE: Yes, but - but Chair that - that statement in affidavit refers to approval before the implementation. It is not referring to approval after the implementation because you have received their approval. You do not ask for another approval.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: So just by way of example that resolution of 13 June 2012 if there was anything you did not understand that was
10 in that resolution you would again go back to the MEC and say can you explain what you meant by Clause 3?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: This is what we are talking about.

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: It is important to differentiate that between administrative decisions such as the deviation decision that you took Mr Thabethe ...

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: Because as I understand matters on the
20 deviation decision that you took that was your decision?

MR MBANA PETER THABETHE: That is - that is correct.

ADV LEAH GCABASHE SC: Okay. I just wanted that clarity so that we do not get things mixed up. Excellent.

CHAIRPERSON: Well you remember earlier on I said I did not know what Mr Zwane has in mind in talking about and using the word

interfere. I did not interfere and in how you responded but I - I gained the impression from what Ms Gcabashe read as part of his version that he was saying his role was limited to policy.

Once it was implementation he would not get involved, but this paragraph suggests to me that he was as fully involved in the implementation at last in the taking of decisions relating to implementation, as you were, if it is true, because you say I did not perform any function and did not take any decision in respect of the implementation and execution of the Vrede Dairy Project without the
10 approval of the MEC and Exco?

MR MBANA PETER THABETHE: Yes Chair that's why I was then qualifying that statement, that that statement refers to me implementing any projects without approval of the Executive Council, that is my – how I put it, it was not referring to decisions during the implementation.

CHAIRPERSON: No, no, no Mr Thabethe, in this paragraph, do you have the paragraph in front of you?

ADV LEAH GCABASHE SC: Sir it is in your statement, it is EXHIBIT HH10 Volume A, you will find it at page 13.

CHAIRPERSON: That is your affidavit before this Commission which
20 you deposed to in August 2019, page 13 paragraph 37.5.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Can you – have you found it?

MR MBANA PETER THABETHE: I have it Chair.

CHAIRPERSON: Yes, you see it doesn't talk about many projects, it talks about decisions in respect of the implementation and execution of

the Vrede Dairy Project, so as the implementation happens decisions have to be taken and what it says is that you did not take any decisions in relation to the implementation of this project without – that is how at least I read it, I may be mistaken without their approval. It may be that it may be that it shouldn't be read literally because then maybe it will be very difficult to do anything if you had to go back to them all the time, but that's what I read the paragraph to mean and when I read it and I bear in mind what you just said and what he said about the officials being involved in implementation and he being involved in the
10 policy only I seem to find – I don't find much harmony, but maybe that I am missing something, do you understand where I come from?

MR MBANA PETER THABETHE: I, I, I hear you Chair.

CHAIRPERSON: Yes, yes.

MR MBANA PETER THABETHE: My understanding when I put – it might not have been put maybe exactly the way I would have wanted it to be, but my explanation in this is saying what I am explaining, it is not meaning that during the implementation I had to call and ask for decision, no it is not saying that Chair.

CHAIRPERSON: Well that's fine I will leave it to Ms Gcabashe to make
20 of it what she may either now or later. Yes?

ADV LEAH GCABASHE SC: Chairman what I will say is that the context being the prescribed departmental processes and the approvals and authorities that lie with those executive officials I understood this to mean that where that was required you would go and get those approvals but where it wasn't required, if it was something that was

within your remit you would just go ahead and do what you needed to do, this is how I understood it.

MR MBANA PETER THABETHE: That is correct yes.

CHAIRPERSON: Well what kind of approvals in relation to implementation decisions would be required of the political head, the MEC or Exco for this kind of, for the implementation of this project, after the Exco had given the approval that we have always been talking about.

MR MBANA PETER THABETHE: Chair this paragraph is referring to
10 that initial approval of having agreed that these projects can be budgeted for and that the project can be implemented so that's what this paragraph is referring to, you will not be able to implement without obtaining the required approval, so the required approval is the executive council approval to do the project and also to have the budget allocated to the project, so you cannot do the implementation without having obtained those required approvals.

CHAIRPERSON: So it refers to – you are referring to the approval that had already been given, that was given first before the project came to you for implementation?

20 MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Yes, I think let's continue, I think I will have further questions about that, but let's continue and look at it overnight, it may be that it may be that it does not necessarily reflect what you intended, but to me it doesn't seem to say what you say, what you're saying it says you know, but let me look at the whole affidavit overnight and then

if need be we can talk about it tomorrow.

MR MBANA PETER THABETHE: That's correct Chair.

CHAIRPERSON: Okay.

MR MBANA PETER THABETHE: But that is my intention
...[intervenes]

CHAIRPERSON: That is your intention ja, whether or not it reflects it correctly is another matter.

MR MBANA PETER THABETHE: Correct Chair.

CHAIRPERSON: Okay.

- 10 ADV LEAH GCABASHE SC: Chairman with your leave I just want to again give context to what I understood that paragraph to mean and what Mr Thabethe's evidence is, which is that Exco resolution and I will just very quickly say what Exco approved was one, the implementation of the proposed Vrede Dairy Agri-business project. So in relation to that he would have to have a relationship with the MEC. Exco approved the sourcing of additional funding of R84million and in again in relation to that there would be discussions about where that would come from because it was not budgeted for.

Am I correct?

- 20 MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: The next one that Exco agreed on was the Department should meet the costs and will later be refunded and engage other relevant departments. Again that is what you would be talking to the MEC about, but if it's a resolution that had been taken.

MR MBANA PETER THABETHE: That's correct.

ADV LEAH GCABASHE SC: And so you would consult him on that.

MR MBANA PETER THABETHE: That's correct.

ADV LEAH GCABASHE SC: Then the matter would be further discussed in the Treasury Committee which is part of my next question because again the Provincial Treasury was important to the implementation, that's again an approval by Exco, correct?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: Then the FDC, the Free State State Development Corporation, should also play a role, especially from the
10 business point of view.

MR MBANA PETER THABETHE: That's correct.

ADV LEAH GCABASHE SC: You were again discouraged to engage in discussions with them.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE SC: And then the last item is that for the next three years the Department of Agriculture will have to pay R130 – it should be million it's written as a thousand here, R113million.

MR MBANA PETER THABETHE: That's correct.

ADV LEAH GCABASHE SC: In respect of this project.

20 MR MBANA PETER THABETHE: That's correct.

ADV LEAH GCABASHE SC: So that is what I understood to be the context of following prescribed procedures, consulting as and when you needed to, just in relation to what they had approved.

MR MBANA PETER THABETHE: That's correct Chair.

ADV LEAH GCABASHE SC: I just wanted to give you this document as

well Chairman to read at your leisure.

CHAIRPERSON: The resolution?

ADV LEAH GCABASHE SC: Which is the resolution it is in your file Chairman.

CHAIRPERSON: Ja, what page in my file?

ADV LEAH GCABASHE SC: It is reference file A Chairman.

CHAIRPERSON: Oh, ...[intervenes]

ADV LEAH GCABASHE SC: It is a poor copy, I know we have a better one elsewhere.

10 CHAIRPERSON: Okay, what page?

ADV LEAH GCABASHE SC: It is page 323 Chairman and at a later stage we will tell you where you can find a better – it is legible, but there is a better copy we believe in the court record file. But it is very clear that these are the items they had approved.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: And I understood ...[intervenes]

CHAIRPERSON: I think what will be important is also to just read some of the paragraphs in the affidavit surround before and after that paragraph, to see whether it fits in with what Mr Thabethe says.

20 ADV LEAH GCABASHE SC: Yes.

CHAIRPERSON: Ja.

ADV LEAH GCABASHE SC: Absolutely Chairman. I ...[intervenes]

CHAIRPERSON: But on the face of it it does seem to be problematic to me but I must just check, it may be that once I have checked my problem will go away.

ADV LEAH GCABASHE SC: I should also remember Chairman that much as we have had studied the documents you have read them but not studied them the way we have had to, because you are faced with so many matters in one week.

CHAIRPERSON: Yes, ja, ja, that's fine ja.

ADV LEAH GCABASHE SC: I will take that into account Chair.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: And so – Chairman my colleague says page '175 of the same bundle has a better copy of that document, just
10 a slightly more legible.

CHAIRPERSON: The same being?

ADV LEAH GCABASHE SC: The, the ...[intervenes]

CHAIRPERSON: The reference bundle?

ADV LEAH GCABASHE SC: The reference bundle A.

CHAIRPERSON: A.

ADV LEAH GCABASHE SC: Reference Bundle A.

CHAIRPERSON: What's the page.

ADV LEAH GCABASHE SC: It is just a little more legible.

CHAIRPERSON: What's the page?

20 ADV LEAH GCABASHE SC: 175.

CHAIRPERSON: 175. And that is where everything really starts in a sense.

CHAIRPERSON: Okay I have got it. Yes?

ADV LEAH GCABASHE SC: Thank you Chairman. And this is why in the same context and again correct even me if I am wrong in my

understanding, you state at paragraph 51.8 of the 2018 affidavit that Mr Zwane recommended to the Provincial Treasury the release of the required funding because it was necessary to shift funds between projects.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE SC: As provided for in the 2012/2013 budget of the Department.

CHAIRPERSON: I am sorry you're reading from where now?

ADV LEAH GCABASHE SC: Chairman so if we go to the 2018 affidavit
10 of Mr Thabethe ...[intervenes]

CHAIRPERSON: And where ...[intervenes]

ADV LEAH GCABASHE SC: At paragraph 51.8 Chairman.

CHAIRPERSON: In which bundle is it again?

ADV LEAH GCABASHE SC: It is again the very same – my apologies
Chair. If you go to page 114 Chairman.

CHAIRPERSON: Of which Bundle?

ADV LEAH GCABASHE SC: Of Bundle 8, Mr Thabethe's statements.

CHAIRPERSON: 118?

ADV LEAH GCABASHE SC: 114 Chairman, so that is the 2018
20 affidavit, so we start with the 2019 affidavit then we have the 2018
affidavit, the last affidavit is the 2017 affidavit. We are currently
looking at the 2018 affidavit and the particular paragraph is on page
114 of Bundle A, of HH10.

CHAIRPERSON: Okay, I have got it.

ADV LEAH GCABASHE SC: Thank you Chairman. Again you can

refer, and Chairman you know that you have got a better copy right at the end because the one, but it is also called page one, right at the end we put in a better copy, a more legible copy.

CHAIRPERSON: Oh, but this one looks legible.

ADV LEAH GCABASHE SC: Oh if you are happy with it Chairman that is fine.

CHAIRPERSON: If this one is legible maybe the one that was supposed to be put in later was put in here. This quite a ...[intervenes]

ADV LEAH GCABASHE SC: Legible.

10 CHAIRPERSON: Ja, yes I have got 114.

ADV LEAH GCABASHE SC: So we are looking at paragraph 51.8 Chairman.

CHAIRPERSON: Oh.

ADV LEAH GCABASHE SC: And if I might read it into the record.

CHAIRPERSON: Then I haven't got I am not on the same page as you.

ADV LEAH GCABASHE SC: MPT114.

CHAIRPERSON: This page 114 I have is of – refers Bundles H.

ADV LEAH GCABASHE SC: No Chairman HH10, HH10 Volume A, you were reading the other paragraph from the FE from the same file

20 Chairman. So it's HH10 Volume A, page 114.

MR MBANA PETER THABETHE: If I may assist the Chair, the number has been ...[intervenes]

CHAIRPERSON: Yes, I have just found it.

MR MBANA PETER THABETHE: They have been duplicated towards the end the clearer you will see the number repeats again from 099.

CHAIRPERSON: Okay, I found 114 which is has got paragraph 50 something.

ADV LEAH GCABASHE SC: Correct Chair.

CHAIRPERSON: That must be the correct one.

ADV LEAH GCABASHE SC: Is that a clear copy that you have.

CHAIRPERSON: That is a clear copy as well.

ADV LEAH GCABASHE SC: Yes.

CHAIRPERSON: Ja, okay, yes, thank you.

ADV LEAH GCABASHE SC: Chairman just for context what Mr
10 Thabethe was dealing with here was he was explaining how if you look
at the earlier pages very quickly he was explaining how the
implementation of this particular dairy project took place.

CHAIRPERSON: Happened okay.

ADV LEAH GCABASHE SC: Yes, so at 51.7 he speaks of the
implementation and the funding structure as explained in the proposals,
and he refers to that Exco resolution of the 13th of June. Then at 51.8
he says for purposes of the release of the required funding it was
necessary to shift funds between projects, as provided for in the
2012/2013 budget of the Department, which transfer was approved by
20 the Free State Provincial Treasury on the 20th of June 2010. The
request which was made to the Provincial Treasury in this regard was
not only recommended by me, but by the MEC for Agriculture, and then
he says there is an approval.

CHAIRPERSON: Yes, okay.

ADV LEAH GCABASHE SC: So my question in relation to this Mr

Thabethe is I have understood that you had to try and accommodate the finding of funding.

MR MBANA PETER THABETHE: Of funding yes.

ADV LEAH GCABASHE SC: Yes, so my question is what role therefore did the MEC play in assisting you in either giving approval for the shifting of funds or giving guidance on where else you could find funds.

MR MBANA PETER THABETHE: Chair the assistance of the MEC – our responsibility will be to find where the funds will be allocated, once we have found the money then we make a submission that the MEC
10 approves because the budget is gazetted, he must then approve so that we submit to Treasury for the shifting of those funds, because we are changing the gazette, and that approval was then recommended by him because in that instance the approval must come from Treasury, he must recommend to Treasury. That is what I am trying to say here that he also recommended for the approval that we then shift those funds, and that line item comes from the Exco resolution that we were required then to find those funds.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: But again the fine distinction there is that
20 that wasn't the day to day implementation of the project, you were still at a more strategic level making sure you had funding for the project.

MR MBANA PETER THABETHE: That's correct Chair.

ADV LEAH GCABASHE SC: Again I have told you the context in which I am interrogating issues is I am trying to understand implementation by the Executive and by the administration, I am still doing that. Can I

move on to the identification of land for the dairy project Mr Thabethe? Mr Zwane's version is that he was not directly involved in the identification of land for the dairy project, he was aware that there was land available but that's about it, your evidence however before the Commission was that it was Mr Zwane who told you about the availability of land and said that you should talk to the Phumelele Municipality about what could be made available, so there is a bit of a difference there, which I think it would be useful for you to clear up. He says he was not directly involved, and you say in fact he is the one
10 who told you where you could go and talk to people about land.

If you can clear it up, if not we will put the question to Mr Zwane.

MR MBANA PETER THABETHE: Ja, thanks Chair, I think it's a matter of semantics, because we were looking for land and then he advised us that talk to the municipality, I am aware they have land. Whether we would call that identification or not I am not sure but ...[intervenes]

CHAIRPERSON: Yes, but that's what happened.

MR MBANA PETER THABETHE: That's what happened.

CHAIRPERSON: Yes.

20 MR MBANA PETER THABETHE: And when we engaged the municipality there was an indication that yes indeed we do have the land and then we started those negotiations.

ADV LEAH GCABASHE SC: So your evidence remains the same?

MR MBANA PETER THABETHE: That's correct.

ADV LEAH GCABASHE SC: Thank you. Mr Zwane in his affidavit

then deals with the travel to India which he had to approve and recommend to the Premier to approve.

MR MBANA PETER THABETHE: That's correct.

ADV LEAH GCABASHE SC: Do you remember that memo?

MR MBANA PETER THABETHE: That's correct.

ADV LEAH GCABASHE SC: Now he seemed to be under the impression that you were going to India with other Government officials, where would he have gotten this impression? My understanding of his affidavit is Mr Narijan is one person and he
10 speaks about Narijan going with you, in fact he says he recommended Narijan.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE SC: But over and above that he seems to have been under the impression that you were going with other government officials. Had that been the original plan?

MR MBANA PETER THABETHE: Chair I am speaking under correction here, he might have confused other trips with this one, that could be very easy because there were other trips where I went with government officials, so ...[intervenes]

20 CHAIRPERSON: To Indian?

MR MBANA PETER THABETHE: To Indian yes.

CHAIRPERSON: Mmm.

ADV LEAH GCABASHE SC: So your short answer is you did not indicate to him that you would be going with other government officials? You did not say that to him?

MR MBANA PETER THABETHE: Chair the submission that goes to the Executive Council for the approval would not go there without going through him, he must sign it before it goes for approval.

CHAIRPERSON: And that stated exactly who you would go with?

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: So would it be correct to say that he could not have thought that you were going with anybody other than whoever was written in the documentation that he approved? After approving that documentation he could not have thought you were going with anybody
10 who had not been approved?

MR MBANA PETER THABETHE: He would not have missed it Chair.

CHAIRPERSON: Yes, but why are you running away from the way I am putting it.

MR MBANA PETER THABETHE: (laughing)

CHAIRPERSON: He – you being the HOD of his department you, everybody within the department who needed to go overseas would have needed his approval?

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Therefore once he had approved what you gave him
20 reflecting who you would be going with he could not have thought there was somebody else from within the department that you would be going with, other than those he had approved?

MR MBANA PETER THABETHE: Ja, except the fact that he recommends also Chair, he does not approve, he recommends.

CHAIRPERSON: Yes, but what I am saying is nobody would be

approved by Exco or by the Premier that had not gone through him?

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: So he may or may not be mistaken but as far as the point after he had approved there was clarity as to who was going.

MR MBANA PETER THABETHE: Was going, that's correct Chair.

CHAIRPERSON: And there were no other officials, other than the people mentioned in the documentation that he was happy with?

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Okay.

- 10 ADV LEAH GCABASHE SC: Can I just explore one element of your discussion with the Chairman, are you saying that even in respect of junior officials, no you are the most senior public servant, so of course the MEC must approve your travel, you can't approve your own travel, but if you were going with a Director or with a Chief Director would would the MEC also have to approve those people travelling with you or would you as the head of department approve the Chief Director or Director travelling?

- MR MBANA PETER THABETHE: Chair in line with the cost containment mergers a decision was taken that all overseas travel must
20 be approved by the Premier, irrespective of a level that was the decision Chair.

CHAIRPERSON: And they could only be taken to the Premier by the relevant MEC.

MR MBANA PETER THABETHE: By the relevant MEC.

CHAIRPERSON: Hmm, so no matter how junior an official in your

department was if he was going to go to India with you the MEC would have seen that name.

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Ja.

ADV LEAH GCABASHE SC: Mr Thabethe then for some reason again Mr Zwane seems to have been under the impression that you were meeting other government officials in India, are you able to throw any light on that aspect?

MR MBANA PETER THABETHE: Chair I can't because my
10 understanding was that the approval was on the basis of a submission that he recommended to the Premier for approval, hence I was saying in the beginning maybe he might have mistaken this trip with other trip but it shouldn't be.

CHAIRPERSON: But you say that the approval of the trip included, entailed that he would have, the documentation, the submission would have told him what the purpose of the trip was.

MR MBANA PETER THABETHE: That's correct.

CHAIRPERSON: And who the people were that you were planning to meet in India.

20 MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: So he wouldn't have had to guess who you would have to meet.

MR MBANA PETER THABETHE: That is correct.

CHAIRPERSON: That is anyone that was important for the trip?

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: And if there were government officials they would have stated in their submission.

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: And if they were not stated in the submission it means they were not part of the plan.

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: You see because when he suggested that Mr Narajan accompany you, as I have understood his version it was
10 because one he thought that without a protocol person, remember you had explained the whole protocol issue to us last time.

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE SC: Now Mr Zwane thought that without a protocol person you would not get the best outcome from the meeting you would be attending, that is the one reason?

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE SC: The second reason was he says that they did not want to be disappointed or disappoint the foreign government officials. I am not sure I understand that clearly, I thought you might
20 be able to explain this, that he did not want you to be disappointed or the people you were meeting to be disappointed hence the selection of Mr Narajan to accompany you. Is this what you understood?

MR MBANA PETER THABETHE: Chair I cannot comment on how he understood it.

CHAIRPERSON: Well what – well you can comment to a certain extent

if for his impression of who you – he says he thought you were going to meet, he advances a certain reason to support that, you may be able to say no but that doesn't make sense because of A, B, C, it couldn't have – that couldn't have been true, so I am just saying as I understand he seems to say something that seems to explain why he may have had a certain impression in terms of who you were going to meet.

MR MBANA PETER THABETHE: I hear you Chair ...[intervenes]

CHAIRPERSON: You may or may not be able to I am just – I am just saying it is not true necessarily that you might not be – ever be able to
10 comment. It depends on what you are being told. You might evaluate it and say no what is – what he is saying in support of his impression really is not justified by what I know he knew.

MR MBANA PETER THABETHE: Chair that is where I have a difficulty.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Because I – I – when he was given the presentation and requested to recommend for approval I do not know what was his understanding at that time. Because if I say he knew I must be very certain that ...

CHAIRPERSON: Well you must – you can – you may be able to say as
20 far as you know he must have known ABCD because he was given certain documents. He must have read them because he approved what was written there.

MR MBANA PETER THABETHE: Yes Chair that is what I was saying. Because it was in the document and...

CHAIRPERSON: Ja but that is how you must articulate. That is – Ms

Gcabashe I do not know if you want to repeat your question so he can then answer it.

ADV LEAH GCABASHE: The question really was that Mr Zwane seemed to be under the impression that if he did not send a chaperone with you I am calling the person accompanying as somebody who would be assisting you in that – in that context. You would be disappointed and the government officials you were meeting would be disappointed. So he thought it prudent to send a protocol person to be of assistance to you.

10 MR MBANA PETER THABETHE: Ja Chair the...

CHAIRPERSON: And if you do not understand what he is saying you are free to say you do not understand what he is saying.

MR MBANA PETER THABETHE: Ja the difficulty I have and because the evidence leader says he was under the impression. You see I have not seen the affidavit.

CHAIRPERSON: Yes but take what the evidence leader is saying as true.

MR MBANA PETER THABETHE: Is saying.

CHAIRPERSON: So you are free to say if that is what he is saying this
20 is my answer.

MR MBANA PETER THABETHE: Ja I do not understand Chair.

CHAIRPERSON: You do not understand this thing of ...

MR MBANA PETER THABETHE: That is why...

CHAIRPERSON: Of disappointment.

MR MBANA PETER THABETHE: It will be a problem for me to answer

when I do not understand the question.

CHAIRPERSON: Do you know any reason why the absence of protocol officer on the trip would have disappointed you?

MR MBANA PETER THABETHE: Now I am confused.

CHAIRPERSON: Ja no what was important about a protocol officer in your trip? What was important? If it was the presence of a protocol officer was not important I do not see why you would be disappointed if there was no protocol officer. But if you know of a particular reason maybe you are able to tell me. Ms Gcabashe it was a protocol officer
10 that he is talking about in relation to disappointment?

ADV LEAH GCABASHE: In – yes and Narayan in particular.

CHAIRPERSON: Narayan.

ADV LEAH GCABASHE: Was the protocol officer.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Who Mr Zwane actually recommended.

CHAIRPERSON: Yes. So I ask you the question Mr Thabethe. Was – would you have been disappointed if Mr – if a protocol officer or Mr Narayan was not there?

MR MBANA PETER THABETHE: Ja – Chair it is a very difficult
20 question because I am...

CHAIRPERSON: It cannot be a difficult question.

MR MBANA PETER THABETHE: I am a technical person. The people that are worried about protocol is at the political level and at the Premier office that is why they told us they insist.

CHAIRPERSON: Yes but we are not talking about those people we are

talking about you. My question is whether you Mr Thabethe would have been disappointed if there was no protocol officer in the trip.

MR MBANA PETER THABETHE: I would be disappointed.

CHAIRPERSON: Because he says you would have been disappointed.

MR MBANA PETER THABETHE: I would have been – I will be disappointed Chair if there would be an expectation in terms of the protocol to do and there was not anybody to advise me to do it.

CHAIRPERSON: But knowing what you know about the trip would you have been disappointed if there was no protocol officer?

10 MR MBANA PETER THABETHE: Chair my understanding is that the disappointment comes when you do something not knowing you should have done.

CHAIRPERSON: No Mr Thabethe.

MR MBANA PETER THABETHE: Then you get the disappointment.

CHAIRPERSON: If you are going on a trip you know if you need certain people and without those people it is going – there are going to be challenges – serious challenges. You would be disappointed if your PA is not allowed to go with you. Or your deputy is not allowed to go with you because you know you are going to rely on your deputy on the
20 issues that would be discussed in India for example. Did you need a protocol officer as far as you are concerned for the trip?

MR MBANA PETER THABETHE: Chair...

CHAIRPERSON: As far as you are concerned do not bother about what anyone else might have thought. Did you need a protocol officer?

MR MBANA PETER THABETHE: Chair if I go to a foreign country as a

government representative where I do not understand the protocol I would need a protocol.

CHAIRPERSON: Did you need a protocol officer on your trip to India?

MR MBANA PETER THABETHE: It was necessary Chair.

CHAIRPERSON: It was necessary?

MR MBANA PETER THABETHE: Because it – I was going to a country that I do not understand its protocols.

CHAIRPERSON: Were you going to meet government officials in India?

MR MBANA PETER THABETHE: No it – not necessarily meeting
10 government officials Chair.

CHAIRPERSON: No, no I am talking about the trip.

MR MBANA PETER THABETHE: No, no Chair.

CHAIRPERSON: Were they in the plans? They were not in the plans?

MR MBANA PETER THABETHE: No they were not Chair.

CHAIRPERSON: So why would you need a protocol officer if you are not going to meet government officials in India?

MR MBANA PETER THABETHE: My understanding is that protocol
20 does not only apply in government. I am not trying to defend Chair the need. I am saying it – to me it did not come as an embarrassment to me.

CHAIRPERSON: To what?

MR MBANA PETER THABETHE: To have not to have.

CHAIRPERSON: Okay maybe embarrassment is close to disappointment. Let us go back to my question. Would you have been disappointed if the protocol officer – there was no protocol officer on

the trip?

MR MBANA PETER THABETHE: Chair I would not have.

CHAIRPERSON: You would not have?

MR MBANA PETER THABETHE: Until such time that something would have happened.

CHAIRPERSON: Ja but if you are told there would be no protocol officer on the trip before you depart for India you would not be have been disappointed?

MR MBANA PETER THABETHE: No I would not Chair.

10 CHAIRPERSON: Yes. In fact I seem to think and you must tell me if I am wrong. I seem to think that previously you did testify that you did not see any need for a protocol officer. Am I – is my recollection wrong?

MR MBANA PETER THABETHE: No Chair the only – what I said I appreciated the presence of the person to assist with the interpretation. That is where my appreciation came into this.

CHAIRPERSON: You needed an interpreter?

MR MBANA PETER THABETHE: I needed somebody to assist me with the interpretation.

20 CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: And...

CHAIRPERSON: Not necessarily a protocol officer?

MR MBANA PETER THABETHE: Most of the time the protocol officer that is allocated to you would be somebody who understand the language, who understand – and so there is a number of people they

get selected.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Based on which country are you going.

CHAIRPERSON: Yes but what you are saying means to me – suggest to me all you need is somebody who can interpret for you?

MR MBANA PETER THABETHE: Do the interpretation.

CHAIRPERSON: What else he does that is something else but you need somebody who can interpret for you?

10 MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE: In fact what Mr Zwane in his affidavit refers to is the foreign culture, the foreign language, somebody to assist in – in helping you communicate effectively? I am just giving you the highlights.

MR MBANA PETER THABETHE: Okay Chair.

ADV LEAH GCABASHE: Of why he thought a protocol officer would assist. But my – my next question though is that you had been to India before in 2010. I know that is on your CV.

20 MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE: In fact when you had gone to India in 2010 you had gone to do an assessment and this is from your CV.

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE: On a request for accreditation of an establishment for the export to South Africa of deboned and deglanded

frozen buffalo meat?

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE: So you had been to negotiate.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE: On behalf of an establishment.

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE: And you were not at agriculture at the time – not at Free State at the time?

MR MBANA PETER THABETHE: Yes I was...

10 ADV LEAH GCABASHE: Because this was in 2010.

MR MBANA PETER THABETHE: I was at National Agriculture.

ADV LEAH GCABASHE: So did you explain to Mr Zwane that you had actually been to India before to go negotiate with the locals there and it really did not need a protocol officer? Or was it irrelevant?

MR MBANA PETER THABETHE: It – ja it was a different – at that time the arrangements were made for me by the embassy in India for the interpretation and all those. And that trip was undertaken as such. So the – how the province operated and how national operated it was not the same.

20 ADV LEAH GCABASHE: You see the other oddity for me certainly is you had been talking to the CEO of Paras.

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE: That is your evidence.

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE: Did you not tell Mr Zwane that you know it is

going to cost us to have a protocol officer. I have actually been talking to the man I am going to visit and we have a good understanding of why I am going to visit him in India. You – there was – there is nothing unusual about the trip because you had arranged the trip. Did you communicate this to the MEC?

MR MBANA PETER THABETHE: No, no I did not Chair.

ADV LEAH GCABASHE: The reason I have always had an interest in Mr Narayan is because of the dual role he seems to have played in the Vrede Dairy Project. Because at one point he is advisor to the Premier.

10 At another point he is representing Estina and this is why really I ask these questions because it is important to understand which hat Mr Narayan was wearing as he did different things for the Free State government. I am just giving you context.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE: Okay. Can you then confirm – I have moved away from the trip to India. That any report that is tabled in the legislature by an incumbent MEC for Vrede – I beg your pardon MEC for agriculture on the Vrede Dairy Project would be based on information that was provided by you/by the department. Would – is that a
20 correction assumption that if the MEC goes to the legislature to address on the Vrede Dairy Project the information they are imparting you would know about. You would have given that MEC.

MR MBANA PETER THABETHE: Ja – ja there is two ways of it Chair. If it is a written reply then the department would do so but if it sometimes when it is an oral reply the MEC can respond orally without

- I must...

CHAIRPERSON: Consulting you.

MR MBANA PETER THABETHE: Without consulting us.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: So there are two ways. If it is a written reply yes the department would have made that input.

ADV LEAH GCABASHE: If it is a budget vote speech?

MR MBANA PETER THABETHE: If it is a budget vote speech then there are two things in the budget for – there is technical and political
10 in the speech. We made the technical input into the budget speech.

ADV LEAH GCABASHE: And then as far as the Premier is concerned and the state of the province address where he refers to or where she refers to a matter from DARD would that information be coming from the officials within the department?

MR MBANA PETER THABETHE: That is correct Chair. We submit our inputs then they formulate it into the speech.

ADV LEAH GCABASHE: I will come back to that probably tomorrow because there is a point at which the Premier says that the milk processing plant was 90% complete. But I just give you that heads up
20 because I would want to know where he got that impression or that information from. But I will show you the proper document tomorrow because it is part of the financials that we will be studying tomorrow.

MR MBANA PETER THABETHE: That is...

ADV LEAH GCABASHE: But it is something for you at least just to reflect on.

MR MBANA PETER THABETHE: Okay.

ADV LEAH GCABASHE: Can we just deal with a couple of other issues. I am moving away from Mr Zwane's version completely. There may be something that pops up somewhere but really I just want to finish off some of the issues that arose from the three affidavits that we have not covered yet.

MR MBANA PETER THABETHE: Okay.

ADV LEAH GCABASHE: Most importantly I just – I do not think it will take us very long Mr Thabethe. But for your convenience you may want
10 to hold onto Exhibit HH10b which is the second file that now has the annexures to your 2017 affidavit. So you get the affidavit in front and then these are the annexures that we were eventually able to locate. I will just run through those annexures and where you want to elaborate and go back into the affi itself please feel free to do so. I really just wanted to place on record what annexures you had included and understand why you included particular annexures in that 2017 affidavit here with me.

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE: So if we look at MPT1 and I think there are
20 flags Mr Thabethe. If you go to 1 lift it and you get to page 254 that document is the document that sets out the basic criteria for Vrede Dairy beneficiaries. Mr Thabethe I believe that the file you want to be looking at – is the one with the pink flags. Are you happy with that? What is that – what is...

MR MBANA PETER THABETHE: MPT001 is this one.

ADV LEAH GCABASHE: No Mr Thabethe – maybe it is our fault for...

CHAIRPERSON: I think tell him – tell him the Exhibit number on the spine first.

ADV LEAH GCABASHE: The exhibit number on the spine is B not A.

MR MBANA PETER THABETHE: It is B – okay.

ADV LEAH GCABASHE: Yes. So it is the first – ja that is the correct one you had. So those flags should be numbered 1 all the way down to 21, are they?

MR MBANA PETER THABETHE: That is correct yes.

10 ADV LEAH GCABASHE: Those are your annexures. Some of them are missing but that is fine we will deal with that.

MR MBANA PETER THABETHE: Okay.

ADV LEAH GCABASHE: If you look at the first flag number 1.

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE: If you lift you will get to the basic criteria for Vrede Dairy beneficiaries.

MR MBANA PETER THABETHE: Okay.

ADV LEAH GCABASHE: Good. Have you seen this document before?

MR MBANA PETER THABETHE: Yes I have seen it Chair.

20 ADV LEAH GCABASHE: While you were HOD at DARD?

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE: Ja. Was this document drafted before you signed the agreement of the 5 June 2012 with Estina? Do you recall?

MR MBANA PETER THABETHE: I cannot remember Chair.

ADV LEAH GCABASHE: Nothing turns on it so I do not want you to

worry about it Mr Thabethe. The intention is not to trick you or anything I just wanted to try and locate it in a particular period of time. But you will agree with me when I say that to date there is no evidence that this criteria had any relevance to the selection of beneficiaries. If you look at those criteria it had no relevance or very limited relevance to the selection of beneficiaries. And I can repeat your evidence to you just to assist you. What you did say is that when you went to speak to beneficiaries you wanted to know who is interested in poultry.

MR MBANA PETER THABETHE: Hm.

10 ADV LEAH GCABASHE: Who is interested in dairy, who is interested in red meat? So I grant you that. But that is about the only issue that you teased out when you were talking to beneficiaries. Correct me if I am wrong?

MR MBANA PETER THABETHE: Ja Chair. I agree I have seen the document but I have not interacted with the document because it is a document that official will develop. It does not necessarily come to the HOD for approval because this will then become their basic guidelines as they go out to identify and see these are the issues. Hence I say I have seen the document but I might not have done reflection on it
20 because I believe the officials in the department who would have done that.

ADV LEAH GCABASHE: I just want to spend one or two minutes to make the point that most of what was set out in this document was completely irrelevant to the search for beneficiaries for the Vrede Dairy Project. A quick example is the very last criteria the one dealing with

age. Age more or less 65 was the cut off ...

CHAIRPERSON: Well there are two ways of dealing with the document Ms Gcabashe.

ADV LEAH GCABASHE: Yes Sir.

CHAIRPERSON: One is if your proposition is that this – the criteria set out in it were relevant is to either quickly read them and tell them or take one by one and tell them or otherwise he can read it overnight and you ask him tomorrow when he has had a chance to reflect on it.

ADV LEAH GCABASHE: I – I...

10 CHAIRPERSON: Whichever because he says he has not had a chance to reflect on it.

ADV LEAH GCABASHE: Chairman and please correct me Mr Thabethe if I am wrong. Your ultimate answer is you know that the document exists.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE: But it was not your function to put together the criteria it is a junior function.

MR MBANA PETER THABETHE: That is correct Chair.

20 ADV LEAH GCABASHE: So you cannot really speak to the relevance of the criteria because it is something that you gave an instruction it had to be done by be it the Chief Director or below.

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE: So I do not know if that answers the issue.

CHAIRPERSON: Yes okay.

ADV LEAH GCABASHE: As I understood the evidence.

CHAIRPERSON: No, no Yes okay no that is fine. Just remember to make sure that your – you are able to be recorded Mr Thabethe. I think your past two, three answers may have been quite soft.

MR MBANA PETER THABETHE: Okay.

CHAIRPERSON: Ja okay alright. But I understand that your answer is you had no input in the creation of the document.

MR MBANA PETER THABETHE: The document.

CHAIRPERSON: You knew about – it would have been prepared by officials but you cannot comment on

10 MR MBANA PETER THABETHE: Comment on.

CHAIRPERSON: The relevance of its contents to anything?

MR MBANA PETER THABETHE: That is correct Chair.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE: Maybe I should also clarify that because the national cusp conditional grant required beneficiaries you are correct when you say that you had to develop a beneficiary document so that you could meet that condition. Again if I am wrong tell the Chairman the facts.

20 MR MBANA PETER THABETHE: Yes Chair. There is a national document that speaks to the issue of beneficiaries and that is the document that I am required to implement. Then from that document then the department can develop its own document maybe to cover areas where they feel maybe they are lacking.

ADV LEAH GCABASHE: And the document that would be required for purposes of the agreement with Estina and getting that conditional

grant from CUSP would be the document the department had developed. Your department.

MR MBANA PETER THABETHE: No, no Chair. The requirements is meeting the criteria of the national department. When you meet those requirements then – then you are allocated the funding not the departmental one.

ADV LEAH GCABASHE: Oh.

MR MBANA PETER THABETHE: Because national has given the conditions. There are conditions that goes with the money so you have
10 to meet those conditions of national for the money to be allocated.

ADV LEAH GCABASHE: Now I know one of the reasons that the CUSP grant was withdrawn was because you failed to present a beneficiary list that met their condition. Am I correct?

MR MBANA PETER THABETHE: Chair that is not correct.

ADV LEAH GCABASHE: Hm.

MR MBANA PETER THABETHE: The list was provided. By the time they withdrew they already had the list. Hence the reason for the withdrawal had nothing to do with beneficiaries. It had everything to do with what I had explained earlier that treasury had requested the
20 department to do so.

ADV LEAH GCABASHE: That is your evidence Mr Thabethe.

MR MBANA PETER THABETHE: Yes. Yes and there is a letter Chair from National Treasury to Agriculture requesting them to do so?

ADV LEAH GCABASHE: We have somebody coming from CUSP who either confirm what you are saying or differ with what you are saying.

And tell me that my interpretation was wrong that is why.

MR MBANA PETER THABETHE: Yes Chair. I have seen – I had an advantage of being provided with that. I think that letter is an exhibit in there.

ADV LEAH GCABASHE: The – I do not think there is any merit in going into the detail of the criteria here as I had wanted to because you say you had nothing to do with it. So I will move on to the next point which is annexure 2. So at least the Chairman knows that not only did you set out criteria – basic criteria you had a list which is part of
10 annexure 1 which was prepared by the department.

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE: And on your version you – that list complied with the requirements of the national office. Please go to the next annexure Mr Thabethe. Now as I have understood your affidavit this presentation was made when you consulted with Nestle, Parmalat, Clover, Dairybelle. If you look at your paragraph 7 – paragraph 7 of the 2017 affidavit and for your convenience it is the first document in the same file. You can – you can even stay with the same file it is actually – ja we just repeated. We simply put it there for convenience.
20 You say this is the document that you relied on and then you continued to say no response was received.

MR MBANA PETER THABETHE: Yip that is correct Chair.

ADV LEAH GCABASHE: You in agreement with that? If you look at this document Mr Thabethe please explain why any of those dairy companies would have been persuaded to invest to become partners

with you in the Vrede Dairy Project? Because if you just page through it slowly – just go through it. It actually tells you on the first page that it is the Mohoma Mobung, Agriculture and Rural Development framework 2012 to 2016.

CHAIRPERSON: Hang on Ms Gcabashe.

ADV LEAH GCABASHE: Chairman.

CHAIRPERSON: Last time I heard was when you were referring to paragraph 7 of his affidavit.

ADV LEAH GCABASHE: Of his affidavit which...

10 CHAIRPERSON: You have moved somewhere else.

ADV LEAH GCABASHE: Chairman it refers to.

CHAIRPERSON: Ja.

ADV LEAH GCABASHE: This document.

CHAIRPERSON: And that document is at page?

ADV LEAH GCABASHE: It is at page 262. It is the second flag Chairman. Flag 2.

CHAIRPERSON: Ja.

ADV LEAH GCABASHE: And so I am going through all the annexures. This is what he had annexed to his affidavit Chairman.

20 CHAIRPERSON: Oh okay.

ADV LEAH GCABASHE: Yes.

CHAIRPERSON: Okay, okay.

ADV LEAH GCABASHE: So I am asking him to explain.

CHAIRPERSON: Yes no that is fine.

ADV LEAH GCABASHE: The relevance of this to the people he said he

spoke to.

CHAIRPERSON: Hm.

ADV LEAH GCABASHE: When he was looking for local partners.

CHAIRPERSON: Yes, yes.

ADV LEAH GCABASHE: Thank you.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE: Mr Thabethe.

MR MBANA PETER THABETHE: Ja Chair this was the generic project Mohoma Mobung Agriculture and Rural Development framework 2011
10 which we had – we presented. But depending on who is the party we are talking to then we then emphasise on specific areas of interest. So the presentation is generic but the discussion then they will focus as you enter into discussion.

ADV LEAH GCABASHE: That is not what you say in your paragraph 7.

Because what you communicate in your paragraph 7

MR MBANA PETER THABETHE: Yes Chair.

ADV LEAH GCABASHE: And it was an important paragraph because you had to decide on whether to use local companies or look further
20 of this presentation there was no response received. That is what you say in paragraph 7.

MR MBANA PETER THABETHE: That is correct Chair.

ADV LEAH GCABASHE: Now just by way of example really to illustrate the point. If you look at – go to page 266 I am really just illustrating the point. When you look at that particular schedule or diagram it

simply – at page 266 Mr Thabethe. It really under Thabo Mofutsenyana which is where Vrede would fall. If you run down that column you speak about cattle, maize, wheat, flowers, asparagus, apples, cherries, peaches, vegetable, soya beans, and potatoes. Now you – this is a pitch to me Parmalat why would Parmalat be interested in working with you?

MR MBANA PETER THABETHE: Chair - Chair I am trying to get to ...

ADV LEAH GCABASHE: Page 2-6-6. That is the one. So go to Thabo Mofutsanyana and that is the Vrede area. Vrede falls within that
10 particular district and you are talking - you are trying to get money - you are trying to get partners.

MR MBANA PETER THABETHE: Hm.

ADV LEAH GCABASHE: You are trying to get interest from local people to work with you and set up this mega dairy project and you show them a document like this. This is what I have understood of your paragraph 7.

MR MBANA PETER THABETHE: Chair can I refer you on - on the same presentation to page 2-7-2.

ADV LEAH GCABASHE: 2-7-2? Chairman are you there?

20 CHAIRPERSON: Yes. I have got it.

ADV LEAH GCABASHE: Continue Mr Thabethe.

MR MBANA PETER THABETHE: The - the - you will - you will read from the column from the left. It says Thabo Mofutsanyana where it says mostly rural.

ADV LEAH GCABASHE: No. Yes, yes. I am with you. Yes.

MR MBANA PETER THABETHE: Yes. Now if ...

CHAIRPERSON: The first column?

MR MBANA PETER THABETHE: Yes. The first - the first column and then the - the second column is the column that talks to the corridor. The third one talks to the focus areas and then you will see in the focus area there - there is made specific of the areas. I think we did discuss them before and then until - until you go to the column where you say commodity type which is one, two, three, four, five column - column number five.

10 Then you will be able to see dairy there becomes a commodity type to be implemented in Thabo Mofutsanyana and you will see on the - on the corridor and - and also the focus areas you would see which areas we intending to focus on which we have discussed. Fouriesburg, Ficksburg, Memel, Vrede.

Hence I say this is a PowerPoint presentation. A PowerPoint presentation you present it. You talk to it. If - if you are not in the presentation you are not going to be able to understand. So you - you summarise in your PowerPoint presentation and then you talk to the presentation. You talk to the people that are sitting there.

20 You explain to them but this is just a presentation that we gave to them and - but what I am trying to explain is the issues that you are looking for. They are covered in the presentation.

ADV LEAH GCABASHE: They are hidden if at all anything else. You can look at the very next column having pointed us to the - the dairy - mention of dairy in column number one, two, three, four, five.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE: Column six - livestock improvement, dairy cow hotel, agro processing/value adding hub Harrismith. Grains, dry bean production and water reticulation. Market infrastructure development. My simple question Mr Thabethe is how do you expect an investor to look at a presentation like this and say that dairy cow hotel sounds like a brilliant idea? You cannot.

If you go to page 280 of the same document and really I am just illustrating the point. It is the same point. There you talk about a
10 mega pilot project and there is a chart provided there. I am just getting there myself. Free State DARD. Planning agent, strategic partner. A most unhelpful presentation.

If what you really want from Nestle or Parmalat or Dairybelle etcetera is their attention - asking them to pay attention to what you can do with the Free State and dairy farming in the Free State. On page 285 there is no mention of dairy. I have actually got a little list here just to illustrate.

On page 272 where Thabo Mofutsanyana is mentioned commodity approach. It just is not a very helpful document. Anyway
20 that is - that is the essential question because you annexed this document to your affidavit. I do not want to spend too much time on making the same point.

It is your document. You used it to try and gain interest from big boys and girls money wise who are actually operating also in the Free State. Anyway.

CHAIRPERSON: Well it maybe - I think it is an important point Ms Gcabashe. Are you able to respond to what Ms Gcabashe is putting to you? She is in effect saying remember you told me last - previously that you would have liked to have got local partners.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Companies from South Africa to partner with you but you tried and you did not get them. Remember I think at some stage I may have said something like it is difficult to understand why you would not get companies interested in South Africa but you would have to go
10 all the way to India and then get one that was interested there.

Now in the context of what she is putting to you is how could you have hoped to get anybody to buy into this if you gave them a document that was not helpful in making that kind of decision.

MR MBANA PETER THABETHE: Ja. Chair - Chair I - I do not agree ...

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Because you - you call a meeting and you sit and you discuss. Then before the discussion you give them a broader discussion of what we want to do. You give them this presentation. Now this presentation you give it to everybody because it
20 talks to the agriculture in the Free State in general and then - then you sit in the meeting and you say one of the focus areas you want to do why we have you called you is this one and we know you are experts in that particular area.

So looking at the document to be talking to what you intended to do is - is not all that we had discussed in the meeting. All I am

saying is that we had the meeting. We presented this view to them so that they have a holistic picture of what we want to do which we have done to everybody and then you then become specific depending on the audience that you are sitting with what you want to talk about on that particular day.

ADV LEAH GCABASHE: Is this the same document you took to Paras when you went to speak to them about the possibility of having them as a strategic partner?

MR MBANA PETER THABETHE: Yes. Chair this is one of the
10 documents that we - we had but when you talk to Paras they are not a South African company that have got interest in the generic agriculture. That you would have done when you are sitting with - with a - a South African company of what is our intention in the Free State agriculture.

So it is - it is a different but yes I agree. We also took this document with us.

ADV LEAH GCABASHE: I actually asked the question if this was the document you relied on. If this was the document you took. You say it is one of.

MR MBANA PETER THABETHE: Of the documents we took.

20 ADV LEAH GCABASHE: So you had other documents?

MR MBANA PETER THABETHE: Yes. We had also another document that we had prepared.

ADV LEAH GCABASHE: That was more dairy specific?

MR MBANA PETER THABETHE: That - that had - was giving them the picture of the dairy in South Africa.

ADV LEAH GCABASHE: Why did you not take something like that to Parmalat or Nestle?

MR MBANA PETER THABETHE: But they - they have the picture of the dairy in South Africa. I cannot go to Parmalat or - or Nestle and tell them about the dairy in South - because they know those facts and figures that I had presented to them there. All I needed to persuade them to work with us because they know the industry even far better than - than I would have explained it.

All I needed them to say this is what we want to do. It is
10 informed by this document of ours that we have developed. Can you work with us? We want to focus into dairy but when you go to India then you give them the picture of the dairy industry in South Africa so that they have an understanding of - if they would want to go where they are going.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Chairman Mr Buthelezi appears to want to ...

CHAIRPERSON: Yes. Is there something ...?

ADV LEAH GCABASHE: Say something.

MR NQABAYETHU BUTHELEZI: Thank you Chair.

20 CHAIRPERSON: Yes.

MR NQABAYETHU BUTHELEZI: It is not my intention to disrupt the line of questioning (intervenes).

CHAIRPERSON: Yes.

MR NQABAYETHU BUTHELEZI: Proceedings but ...

CHAIRPERSON: Hm.

MR NQABAYETHU BUTHELEZI: In my calculation now we have exceeded a good 15 minutes discussing this presentation the quality thereof and whether it could have found applicability locally or internationally or globally ...

CHAIRPERSON: Hm.

MR NQABAYETHU BUTHELEZI: And with respect I have been trying to establish how it the advances any of the critical issues which we need to get through before the end of the day ...

CHAIRPERSON: Hm.

- 10 MR NQABAYETHU BUTHELEZI: And if - it is - it is a subjectivity point. It is subjective to say whether I consider one presentation to be of value or not and if the witness testifies that well I think this was great and the evidence leader does not hold the same view. We cannot sit and try haggling over that point Chair.

CHAIRPERSON: Well - well I do not know about 15 minutes. That might be ...

MR NQABAYETHU BUTHELEZI: Maybe I am stretching it because I am ...

CHAIRPERSON: Ja, ja. I think you might be stretching it, ja.

- 20 MR NQABAYETHU BUTHELEZI: (Intervenues).

CHAIRPERSON: But I think it is - it is an important area. You - you would have heard me say to Ms Gcabashe the question might relate to something important. One of the - one of the things that still intrigues me is how it was not possible to find a - a company within South Africa to partner with them and how Paras was selected ...

MR NQABAYETHU BUTHELEZI: Yes.

CHAIRPERSON: And how a company so far away was found and so on and so on. Now Ms Gcabashe might have had more time than I have had to - to focus on this document but it could be - it could be that her questions are aimed at saying that the presentation at least that part of it that is in document form that you gave to local companies was not the kind of document that had any chance of persuading them to come on board and - and maybe and she is not necessarily saying that but she will say so if she says that.

10 Maybe the idea was to go and get Paras but able to say local companies were not interested but the way you went about it was not meant to generate any interest from them anyway. You know. So - so - but that is one area - that is one angle on - or which she might be persuading - pursuing and if that is the angle I am quite interested in it because I think every - everyone who list - has been listening to evidence relating to this project you know is wondering how come you know a company - the company that was found to partner was in India when the Department of Agriculture and the Head of Department says actually we wanted local companies but did not find them.

20 They were not interested. So let us - let us allow it and then let us see, ja.

MR NQABAYETHU BUTHELEZI: I - I accept Chair.

CHAIRPERSON: Yes, ja.

MR NQABAYETHU BUTHELEZI: I think what triggered me ...

CHAIRPERSON: Yes.

MR NQABAYETHU BUTHELEZI: To - to - in fairness was that ...

CHAIRPERSON: Hm.

MR NQABAYETHU BUTHELEZI: The initial question had started to say how would Parmalat have accepted this ...

CHAIRPERSON: Hm.

MR NQABAYETHU BUTHELEZI: And then the question is now how would Nestle have accepted.

CHAIRPERSON: Hm.

MR NQABAYETHU BUTHELEZI: I am thinking well ...

10 CHAIRPERSON: Hm.

MR NQABAYETHU BUTHELEZI: They did not accept it.

CHAIRPERSON: Hm.

MR NQABAYETHU BUTHELEZI: We now know this.

CHAIRPERSON: Hm.

MR NQABAYETHU BUTHELEZI: We do not think it was a great quality presentation anyway.

CHAIRPERSON: Hm, hm.

MR NQABAYETHU BUTHELEZI: How did Paras then accept it and then ...

20 CHAIRPERSON: Hm.

MR NQABAYETHU BUTHELEZI: And then let us ...

CHAIRPERSON: Ja.

MR NQABAYETHU BUTHELEZI: Take the point forth.

CHAIRPERSON: Ja. No, no that is - that is ...

MR NQABAYETHU BUTHELEZI: Thank you Chair.

CHAIRPERSON: That is fine. Thank you. Ms Gcabashe.

MR MBANA PETER THABETHE: Ja. Chair ...

ADV LEAH GCABASHE: Chairman fortunately I am the one who is leading evidence not Mr Buthelezi. So let us go back to this.

MR MBANA PETER THABETHE: Ja. Chair can - can I go back?

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: It - it is my understanding ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: That South African companies
10 understand Government operations and the programs ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: That exist in Government ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: And - and where they are required to
- to participate. You do not need to lecture them in - in those things
and they know the amount of funding available for what in Government
because they are exposed to that. What you require from your side as
Government is to persuade not - not the document - repeat of a
document - of documents that they have seen in order to be able to
20 persuade them.

In - in fact my understanding would be if that would have
been the case would have had a great success on the development of
smallholder farmers if - if that - that is the - is the - is the - my
understanding that private sectors would have wanted to be involved
together with all Provincial Governments in assisting smallholder - of

which budget Government has.

We would have achieved great success. We go to that persuasion but we do not win and - and I could give you an example Chair. We - we are sitting - we are sitting in the Free State with another project state of the art of fish which was done by the Chinese.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: The - on the same principles. They came and they built a very beautiful fish research centre and the production of fingerling and - and we are sitting here. We have got a
10 very big fish industry in South Africa which - which could have done it. Now - now all - all that I am saying is that it is not that easy that you go there and you persuade and people say we are interested.

There are other dynamics at play that you - you cannot influence and you have to move on.

CHAIRPERSON: Yes.

MR MBANA PETER THABETHE: Otherwise we would - we would be doing - because all Provincial Government would sit which budget where they want to assist smallholder farmers ...

CHAIRPERSON: Hm.

20 MR MBANA PETER THABETHE: But the entire industry in South Africa knows that.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: That money is available and they could come partner with the departments and implement but it is not happening.

CHAIRPERSON: Hm.

ADV LEAH GCABASHE: Just for ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: For - I beg your pardon Chair.

CHAIRPERSON: No.

ADV LEAH GCABASHE: Can I go ahead?

CHAIRPERSON: Ja.

ADV LEAH GCABASHE: Just for clarity and correct me again if I am wrong. That Chinese sponsored fisheries project ...

10 MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE: The Chinese actually put money into it?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE: Yes. It is very different when you are talking to a local company because you have to persuade them for whatever reason to put money in - in the same way you persuaded Paras to put money into this project eventually. So all I am saying is I do not think you are comparing apples with apples when you look at the Chinese sponsored fish - fish hatchery. I happen to know about it ...

MR MBANA PETER THABETHE: That is correct.

20 ADV LEAH GCABASHE: And the approach you would have been making to the local South African companies. I did not understand you to say that you were asking them to sponsor as the Chinese have done and they do on the whole continent ...

MR MBANA PETER THABETHE: (Intervenues).

ADV LEAH GCABASHE: But that you wanted them to come in on the

different basis but they are local.

MR MBANA PETER THABETHE: Yes. That - that is correct Chair. What - Chair what - what I - we persuaded the Chinese the same way because we had to go there and - and say if - if you - if this project would be done in South Africa ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: In the Free State this would be the benefit to us and - and the Chinese invested the money in the infrastructure but we had to budget the operations to make sure that it
10 becomes functional. It became the responsibility of - of the department to make sure that - that operates.

So we had to make money available in - into that but what I am trying to explain Chair is that we - we would not have persuaded South Africans because they understand the situation. In - in some instances I would - I would actually say in fact it was the private sector would have come - should have come to the department to say can we work with you in assisting these farmers.

What would you want to do and how? How much money do we have and then we plan together and we implement and we assist.

20 ADV LEAH GCABASHE: Chairman if I might move on?

CHAIRPERSON: Yes, but what maybe important if you had in mind what I had in mind about what would have been important to put in the document. It maybe - I see we are five to five. It maybe something for tomorrow to look at what the important features would have been that one would have expected to be in the kind of presentation that was

given to the local companies.

Were those features there? You know. That - that kind of information but maybe that can be dealt with tomorrow.

ADV LEAH GCABASHE: I - I will ...

CHAIRPERSON: Hm.

ADV LEAH GCABASHE: Look at that Chairman.

CHAIRPERSON: Ja.

ADV LEAH GCABASHE: I - I think part of the difficulty of course is also just the documents that Mr Thabethe has not been able to - to get
10 hold of. For instance his ...

CHAIRPERSON: Oh.

ADV LEAH GCABASHE: His high level desktop ...

CHAIRPERSON: Yes, yes.

ADV LEAH GCABASHE: Research ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Would also have been helpful ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: But I know he has not been able to get hold
of that.

20 CHAIRPERSON: To get it, ja.

ADV LEAH GCABASHE: Am I correct?

MR MBANA PETER THABETHE: That is correct.

ADV LEAH GCABASHE: Yes.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: I do not know if there are any other

documents that you - you might have. This is really all we have been able to get hold of from various sources but if you - you have better documentation to help the Chairman understand these features in respect of a local company that you would have wanted them to bring to the table on this dairy project. It would be helpful ...

MR MBANA PETER THABETHE: No. That is fine.

ADV LEAH GCABASHE: But I will also look at the Setsoto presentation Chairman because it was similar. Not the same but similar.

10 CHAIRPERSON: Yes.

ADV LEAH GCABASHE: It was also a dairy cow hotel ...

CHAIRPERSON: Okay.

ADV LEAH GCABASHE: And there might be things we can glean from that.

CHAIRPERSON: Okay.

MR MBANA PETER THABETHE: Ja.

ADV LEAH GCABASHE: That would assist the Chairman.

CHAIRPERSON: Ja.

MR MBANA PETER THABETHE: Ja.

20 CHAIRPERSON: Okay.

MR MBANA PETER THABETHE: Chair - Chair the Setsoto ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: Detail had already been developed.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: Now during the time when we were

talking to strategic partners we had not even developed a concept.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: We wanted to develop a concept together with somebody who would want to be part of it.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: So you would not have a document like you have at Setsoto ...

CHAIRPERSON: Hm.

10 MR MBANA PETER THABETHE: Because Setsoto had been fully developed ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: By that time ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: For implementation ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: But at this time you want - when you agree then you begin to develop the document together.

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: All - all that you needed ...

20 CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: And it did not mean that after it has been developed then you must put the money. You go that together. We agree. We do the investigation. We do the feasibility study. If we agree then we implement. That - that was the level at which this was done but you - you would not have a - a fully-fledged document by that

time to present to somebody to say please put money here because that - that was not the intention.

It was - it was too develop the document together with whoever was interested. Hence you do not have ...

ADV LEAH GCABASHE: Hm.

MR MBANA PETER THABETHE: I understand that we would have done it ourselves first and done the feasibility study. Done everything and at that time then we would go and say we have a business plan. This is the money we need. Are you interested and - but that was not the
10 approach that we were looking at.

CHAIRPERSO: Hm.

MR MBANA PETER THABETHE: Hence we did not have a document that she might have been looking for.

ADV LEAH GCABASHE: I also have in mind Mr Thabethe the document that was prepared by Dawie Marais who you know gave evidence here because he spoke to - much as it was a - a criticism in part - not in whole - in part of the Vrede Dairy Project but the elements of - of how you run a dairy farm what you would require are in that document.

20 Maybe that also is a source document we can use to help the Chairman understand those features that you would want to use to attract a local company to invest with you and work on something that will benefit the Free State Province. I do not know ...

MR MBANA PETER THABETHE: I ...

ADV LEAH GCABASHE: If you think it is a good or bad idea.

MR MBANA PETER THABETHE: Ja. Chair I do not agree because he was critiquing a document that had already been developed. He was not critiquing the intention. He - he in his document he said there was nothing wrong with the intention to develop. So he looked at a specific document that was developed already and that is what he was critiquing.

ADV LEAH GCABASHE: You are closing all the doors I am opening Mr Thabethe.

MR MBANA PETER THABETHE: No.

10 ADV LEAH GCABASHE: No and you are entitled to and I rely on your expertise. You are an expert in this field which is why I ask you the question shall we do this, shall we do that and I - I have understood your answers as well. That this was at inception that you were trying to put something together.

MR MBANA PETER THABETHE: Yes.

ADV LEAH GCABASHE: It was not a document that had already been prepared and you were just going to - you were asking partners to come and work with you and conceive and tailor make something that would suit the Free State Province.

20 MR MBANA PETER THABETHE: Yes. Chair - Chair we - we - previously when - when we discussed this. I have also indicated that using the same document and criteria we managed to find other strategy partners in the Free State to do other projects which we have implemented. So this document did not dismally fail. We - we were ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: Able to achieve ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: Using it because there are other partners who said we understand you. We would want to work with you ...

CHAIRPERSON: Hm.

MR MBANA PETER THABETHE: And those projects were implemented.

CHAIRPERSON: Hm, hm.

ADV LEAH GCABASHE: Chairman I have three and four which we
10 have dealt with already. Maybe I should just put that on record.

CHAIRPERSON: Huh-uh.

ADV LEAH GCABASHE: Annexure 3 is the Memorandum of Understanding that we have already discussed between the Government of South Africa and the Government of - of India. So we do not have to go back to that. Then Annexure 4 is that motivation/submission you made to the Premier with the recommendation of Mr Zwane. Again we have dealt with the material.

We do not need to look - look at that. Annexure 5 we have not received and it is a bit of a pity because that is the presentation
20 that you brought back from Paras. We - we have not - unless you have it. We have not been able to find it and it is not part of this Court bundle of yours. If you have it please share it with us Mr Thabethe.

MR MBANA PETER THABETHE: I - I think it is Chair in the Court bundle.

CHAIRPERSON: Oh.

MR MBANA PETER THABETHE: I ...

CHAIRPERSON: So maybe he can look at it overnight.

MR MBANA PETER THABETHE: Yes.

CHAIRPERSON: Then tomorrow morning then we can ...

ADV LEAH GCABASHE: Yes.

CHAIRPERSON: He can report back.

MR MBANA PETER THABETHE: Thanks Chair.

ADV LEAH GCABASHE: Then tomorrow Chairman if this is - a convenient time

10 CHAIRPERSON: Yes.

ADV LEAH GCABASHE: To stop.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: We can start with MPT6 ...

CHAIRPERSON: Ja.

ADV LEAH GCABASHE: Depending on what Mr Thabethe is able to find ...

CHAIRPERSON: Ja.

ADV LEAH GCABASHE: In regard to Annexure 5.

20 CHAIRPERSON: Ja. No that is fine. What is your assessment at this stage of how we are likely - how much time we might need ...

ADV LEAH GCABASHE: Chairman ...

CHAIRPERSON: For Mr - to Mr Thabethe tomorrow? Does it look ...?

ADV LEAH GCABASHE: If we could have the whole day.

CHAIRPERSON: Ja. No that is right. We do have the whole day but I am just wondering whether in terms of what we have covered so far

whether it gives any indication whether our pace is fine for the - the whole day or whether we - we might not finish or it might be too little to make an assessment.

ADV LEAH GCABASHE: No Chair ...

CHAIRPERSON: What we have done today.

ADV LEAH GCABASHE: Chairman the intention is still to finish. We are on question 55 of 120 before we get to the financials. So I am going to - I am going to chop ...

CHAIRPERSON: Ja.

10 ADV LEAH GCABASHE: I am going to try and reduce.

CHAIRPERSON: No, no that is fine but the bottom line is that nothing has - that has happened this afternoon changes your view that we should be able to finish tomorrow?

ADV LEAH GCABASHE: I - I think we should Chairman ...

CHAIRPERSON: We should be able, ja.

ADV LEAH GCABASHE: Simply because I will cut ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE: Because a lot of the material we have covered.

20 CHAIRPERSON: Ja. No, no that is fine. We have - we had covered but I - I will also have look. I do recall that I did have some issues that I wanted to look at again and then raise with Mr Thabethe. So I will have a look.

ADV LEAH GCABASHE: Can we start at half past nine though Chairman? Is that convenient?

CHAIRPERSON: Well that is what I was now wanting to talk about. Partly that is why I was asking the question because I was wondering whether we should start at 10 or half past nine depending on what our estimate is in terms of whether we would finish on time. So maybe to be on the safe side let us start at half past nine to give us just a little extra.

Would that be fine Mr Thabethe from your side starting at half past nine?

MR MBANA PETER THABETHE: Yes. I will be fine Chair.

- 10 CHAIRPERSON: Yes and your Counsel indicates it would be fine as well. Alright we will start at half past nine tomorrow. We will adjourn for the day and then start at half past nine tomorrow. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 4 SEPTEMBER 2019