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# INGONYAMA

TRUST BOARD

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ANNUAL REPORT

FOR THE YEAR ENDED 31 MARCH 2005

HIS MAJESTY THE KING

PRIVATE BAG 5023  
NONGOMA  
3950



SY MAJESTEIT DIE KONING

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The Honourable A.T. Didiza MP  
Minister for Agriculture and Land Affairs  
Private Bag X 833  
Pretoria  
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Dear Minister

**Ingonyama Trust: Annual Report - Year Ending 31 March 2005**

This letter is written to you in my capacity as statutory Chairperson of the Ingonyama Trust Board. It conveys to you the fourth Annual Report submitted for tabling in Parliament.

The existence of the Trust has proved to be of great value in ensuring that one of the main assets of my people – their land – is wisely used. Too often in the past my people have been misled in land transactions and have not reaped the level of benefits which was their due.

The expertise of the Board and its diligence has meant that, whilst entrepreneurs have been encouraged to do business on Trust land, the associated contracts of various kinds have contained provisions ensuring the accrual of benefits to the local communities. This has increasingly worked to the economic and social benefits of my people.

It is also pleasing to me that the Board has gone about its business without becoming embroiled in political and other conflicts. You will agree, I am sure, that land is always a sensitive issue. The objective and professional approach of this Board has been most praiseworthy. Whilst change is inevitable I do hope that the expertise and experience reposing in the Board and indeed its working ethos, is not lost to my people.

It remains for me to thank the members of the Board and its Secretariat. I would especially thank Judge S.J. Ngwenya who acts as Chairperson whenever I am not available. I wish to also express my appreciation to yourself, Madam Minister, and to your Department for the support afforded to the Trust

Yours sincerely

KING GOODWILL ZWELITHINI ka BhèkuZulu  
CHAIRPERSON

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### **Part 2: Annual Financial Statements**

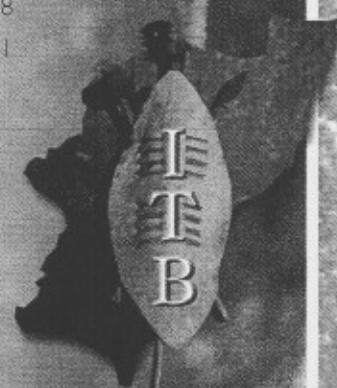
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## ANNUAL REPORT FOR THE YEAR ENDING 31 MARCH 2005

### 1. BACKGROUND

The Ingonyama Trust was established in terms of the KwaZulu-Natal Ingonyama Trust Act, (Act 3 of 1994). This Act was amended by National Act 9 of 1997. Among other things, the KwaZulu-Natal Ingonyama Trust Amendment Act provided for the establishment of the Ingonyama Trust Board. The primary objective of the Board is to function as landowner-in-law of Ingonyama Trust Land, which is in extent of some 2.7 million hectares spread throughout KwaZulu-Natal. The Board may however only perform that function in the manner prescribed in the Act.

This legislation provides for His Majesty the King to be the sole trustee but in terms of the 1997 amendments the aforementioned Board came into operation on the 2 October 1998 to actually administer the affairs of the Trust. The Chairperson of the Board is His Majesty the King or his nominee. The eight members are appointed by the Minister, subject to consultative procedures laid down in the Act.

The core business of the Trust is to manage the land for the "material benefit and social well being of the individual members of the tribes". However, no alienation or burdening of the land may occur without the written permission of the relevant traditional or community authority.

### 2. VISION

To improve the quality of life of the people living on Ingonyama Trust land by ensuring that land usage is to their benefit and in accordance with the laws of the land.

### 3. OBJECTIVES

- To formulate and implement policy;
- To provide an effective land administration system;
- To create a climate which encourages development and
- To extend security of tenure in accordance with both customary and statutory law always subject to the Constitution Act, 1996.



## 4. CORPORATE GOVERNANCE AND STRUCTURE

### Management structure

The Board has the following management structure:

- The Executive Authority in terms of the Public Finance Management Act (Act 1 of 1999) (PFMA)
- The Executive Authority in terms of the Public Finance Management Act (Act 1 of 1999) (PFMA) is the Minister for Agriculture and Land Affairs.
- The sole Trustee of the Ingonyama Trust is His Majesty King Goodwill Zwelithini ka-Bhekuzulu.
- The accounting authority in terms of section 49 of the PFMA are the members of the Board, which for the year 2004/2005 consisted of the following:
  - His Majesty the King (Chairperson)
  - Mr. G.S. Thomas (vice Chairperson)
  - Hon Mr. Justice S.J. Ngwenya (member)
  - Advocate W.E.R. Raubenheimer (member)
  - Mr. F.R. Brooks (member)
  - Mr. B.L. Shabalala (member)
  - Ms T.A. Shange (member)
  - Ms J.T. Bhengu (member)

### Board

The Board meets approximately every six weeks to formulate policy issues and approve land rights for new development. The operational activities of the Board are funded through revenues mainly generated from mineral leases and leases of commercial land. It is emphasized that it is Board policy that 90% of the revenue flow accrues to the Traditional Community in whose area the revenue is generated. The internal administrative costs of the Board are met from a grant-in-aid from the National Department of Land Affairs. The operational costs are met from 10% of the funds accruing to the Trust. Both of these financial arrangements are in terms of the Ingonyama Trust Act 1994 and the Financial Regulations made under that Act.

### Secretariat

The Board is assisted in its day to day work by a full time Secretariat. During the year, the Secretariat was staffed by the following officers: Chris Aitken, Dockas Zondi, Amin Mia, Eugenia Montaque and Nompumelelo Dindie.

The Secretariat's work fell into four main categories:

- General administration;
- Financial administration;
- Land/legal administration;
- Linkage to the Board's agents and service providers.

### Logistical support

The Department of Land Affairs provides office accommodation and equipment.

### Financial management

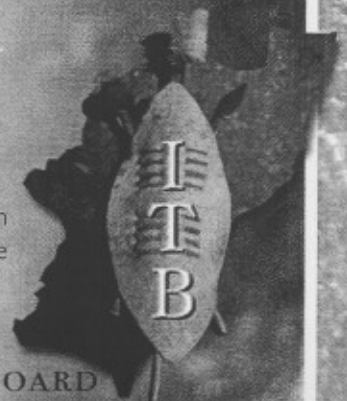
Since the listing of the Board as a schedule 3A public entity with effect from 1 April 2001, it has taken the various steps required to achieve compliance with the requirements of the Public Finance Management Act, 1999 (Act 1 of 1999).

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## 5. A REVIEW OF THE OPERATIONS AND ACTIVITIES OF THE BOARD DURING THE YEAR

### Meetings

Three types of meetings constitute the Board's way of working. These are Board meetings, Executive Committee (Exco) meetings and purpose-centered meetings. The latter usually involve one or two Board members and a staff member meeting other parties. Board meetings are normally held every six weeks and Exco meetings usually on a monthly basis.

### Disbursements

The Board makes the following disbursements :-

- (a) **Internal** –paid from a grant received annually from the Department of Land Affairs.
  - (i) Subsistence and Travel costs (mainly for meetings).
  - (ii) Board members fees (those not in the employ of the State).
  - (iii) Equipment and vehicle (one only) maintenance costs.
  
- (b) **External**
  - (i) The Board uses its "own" funds in terms of Financial Regulation 10(2), for the payment of Professional and other fees for services of benefit to all communal land dwellers such as legal opinions, standard contracts, surveying costs and Deeds Registry search fees. This is financed from the 10% of Trust fund transactions which the Financial Regulations permit the Trust to retain for operating costs.
  - (ii) Funding from the same source is sometimes used to assist Traditional Authorities in particular situations. Thus where a Traditional Authority (supported by the Trust) is engaging with a major company which retains high – powered lawyers, the Trust pays for legal advice of the same calibre on behalf of the Traditional Authority. In that instance, and in many others, a Board Member and staff members attend meetings of community leaders and the relevant business persons. The community leaders have always been most appreciative of the presence of the Trust representatives assisting them to protect community interests.

- (c) **The Disbursement of funds standing to the credit of a particular community**

It is Trust policy that where income accruing to the Trust is from an identifiable traditional authority area, that money must be earmarked for the benefit of that particular community, less the 10% retained in terms of Finance Regulation 10(2).

The problem is how to responsibly disburse that money so that there is accountability and a reasonable expectation that it will really be used for the material benefit of the whole community.

Here it must be remembered that the Trust is subject to the Public Finance Management Act 1999. Section 38 (1) (j) read with Section 51 (1) (h) of that Act says that an Accounting Officer / Authority (the Trust Board is the accounting authority) must not transfer funds unless it is satisfied that reasonable financial control measures are in place.

Previously the Board (the Accounting Authority) transferred funds to Traditional Authority Trust Accounts. The using of these Traditional Authority Trust accounts stopped however when the KZN legislature froze those accounts on the recommendation of the Auditor-General. It is understood that these Trust accounts have recently been unfrozen and the possibility of again using them as payment avenues will be discussed with the relevant Provincial Authorities.

These Trust accounts, even if soundly managed are, however, not necessarily the best way of bringing benefits to the communities as envisaged in the Ingonyama Trust Act and the Public Finance Management Act. It must be emphasised that the Board is **not** legally obliged to use the Traditional Trust accounts established in terms of Provincial legislation because the Ingonyama Trust Act, 1994 is National legislation in an area of **non** – concurrent competence, Land Affairs being an exclusive National competence.

Not all the Traditional Authorities areas actually generate income. It is usually those which have mining operations on their land who have **significant** funds standing to their credit with the Trust. How then does the Trust ensure that those credits are indeed utilised for the "material and social benefit" of the relevant communities? What has been done is that all Traditional Authorities having a credit with the Ingonyama Trust have been informed in writing of the amount standing to their credit. At the same time the Traditional Authorities were asked to identify projects which they could manage with reasonable accountability and submit business plans in support thereof. The Trust Board has accepted that many traditional communities have created (registered) development trusts. The Board is willing to use such a trust, with the written consent of that Traditional Council.

If the Board agrees that the business plan for a project is viable and accountable, the go ahead is given. Payments are only made against a detailed invoice accompanied by a certificate from the Traditional Authority or clan development trust, to the effect that the work has been satisfactorily carried out or the service satisfactorily rendered.

Unfortunately, very few Traditional Authorities have so far submitted projects. Those having a credit with the Trust will be encouraged to propose projects and, if necessary, assisted in preparing proposals. Monies collected and held by the Board in trust are demand driven in as much as it is up to the various communities to request the allocation of these funds.

The Board is **not** responsible for the allocation of land for community residential and grazing purposes. This function is carried out by the various traditional authorities and communities in terms of customary law and practice. The communities are legally liable for the fencing of their land as well as ensuring that alien vegetation is alleviated and firebreaks are cut on the land that they occupy. The Board assists by facilitating liaison with Fire Protection Associations and the Working for Fire Project administered by the Department of Water Affairs and Forestry.

There is no indication that, prior to the Board coming into existence, any of these communities ever benefited financially to the extent that is now possible.

The Board sees real estate management as one of its major core functions and continues to encourage development on its land which will be of benefit to the various communities. This should be not only from a rental income point of view but also through employment and other opportunities.

In this connection the Board has developed various rental policies and actively encourages developers to form joint venture partnerships with the communities. Land owned by the Trust includes some of the most under-developed land in the Province but it has enormous potential for development.

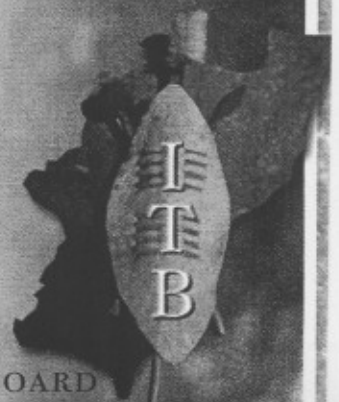
It is Board policy for land to be made available for sustainable development and to ensure that members of the local communities derive the maximum benefit. Such development must comply with the Integrated Development Plan of the local Municipality.

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Except in exceptional circumstances the Board does not sell or transfer land. Instead, it is standard policy to issue a short term lease for up to two years to enable developers to obtain planning and environmental consents and to secure finance for the development. Thereafter a lease for a term of up to forty years with an option to renew for a further forty years is normally granted once the requirements of the short term lease have been met.

To date the Board has granted some 170 leases generating R688,342.00 per annum. The leases cover such diverse uses as shopping centres, game parks, residential developments, lodges, petrol filling stations, telecommunication base stations, sugar cane farming, grazing and aquaculture projects.

One of the challenges facing the Board and possibly other similar institutions is the availability of land for uses such as housing and cemeteries. The Board has had many requests from Local Municipalities and private developers in this context.

It is important that there is a successful and credible implementation of the rural housing policy by the Provincial Department of Housing on land owned by the Trust and that adequate provision is made by the Local Municipalities and others of supporting infrastructure.

The Board has developed a standard Development Rights Agreement for this purpose and provided the relevant Traditional or Community Council agrees, the process can be fast-tracked.

## 6. WHAT STILL HAS TO BE DONE

### Townships

The word "township" has a slightly controversial meaning in South Africa and the task of the Board was, and is, in terms of the KwaZulu-Natal Ingonyama Trust Act, 1994 (as amended) to transfer the former R293 KwaZulu towns to the various Municipalities.

The definition as to what constitutes an R293 township in terms of outer boundaries has given rise to debate and there has also been a reluctance by some Municipalities to take transfer. In particular, R293 townships were not subject to the payment of rates and were often not well serviced. This has possibly given rise to this reluctance.

Many townships were administered more like informal settlements with very little regulatory requirements being enforced. The local government transitional period to date has not improved the situation and the allocation of resources has been scarce. As a result, the transfer process has not yet been finally completed despite a grant of R3 million by the Department of Land Affairs during the past two financial years. The following challenges have to be faced:

- The townships were not previously properly surveyed.
- as opposed to freehold title, occupiers were only granted deeds of grant or Permissions to Occupy. These were not registrable in the Deeds Registry resulting in some instances of competing claims over one and the same property.
- The question of rating remains a thorny issue to this day.
- In some townships it has not been possible for transfer to be completed as land still has to be transferred to the Trust from the Department of Land Affairs.





These difficulties notwithstanding, township land totalling 16814 hectares has now been transferred. The Board intends to pressurise the various Municipalities to take transfer of the remaining areas during the coming financial year.

#### Mineral Resources

The Mineral and Petroleum Resources Development Act, 2002 came into force on 1 May 2004. This Act raises many challenges. In the first instance it relates to minerals on land regardless as to how the land is owned. There appears to be an omission from the point of view of communal land in that the benefits derived from minerals on land are extended to a wider community than just the community from which the minerals are extracted. Once the Act is fully implemented, the minerals will vest in the State with the result that the benefits might be lost to the communities. The value of the land could also fall as a result of the loss of ownership of the mineral rights.

Currently some R6.7 million is received by way of royalty income per annum. During the year an outside service provider was appointed by the Board to replace the Department of Minerals Affairs and Energy which had managed the mineral resources on behalf of the Board for the past five years. The Service provider is carrying out an audit of all the mining assets of the Board and is processing all new applications for mining permits and mineral leases for submission to the Board.

#### State Domestic Properties

In terms of the Ingonyama Trust Act, these properties vest in various organs of State. It is a requirement of the legislation that these organs of State should execute the title endorsement process. In order to assist them the Board commissioned a land use survey which has identified some 4000 qualifying properties. The Board continues to liaise with the various line function departments to encourage them to take transfer of any property that was used for State Domestic purposes prior to April 1994. If the property was allocated after that date then it is the policy of the Board not to transfer but to insist on a lease to the benefit of the relevant community.

The transfers have not been completed for several reasons:

- Some of the underlying land still has to be transferred to the Trust from the Department of Land Affairs.
- The informal nature of how communal land was previously administered compounds the problem because of the lack of information as to when some of the properties were allocated and constructed. There are no adequate records and physical inspections will be necessary;
- Some of the relevant State Departments appear to be unaware of the existence of the Ingonyama Trust and have assumed that they already own the land in question even though they have no title deed to that land.
- Whilst the land remains within the ownership of the Trust any liability for the payment of rates could be avoided by the relevant Department.

#### Permissions To Occupy

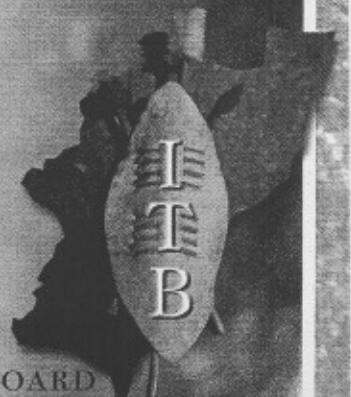
In September 1998, the then Minister of Land Affairs gave a delegation to the MEC for Traditional and Local Government in KwaZulu-Natal to issue Permissions to Occupy in respect of residential, agricultural and commercial sites on Ingonyama Trust land.

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It should be noted that the Ministerial delegation was given to the MEC and not to the Trust. Thus an anomaly has arisen in that a tenure right is being issued by a third party on land vested in the Ingonyama Trust whilst all other rights such as leases and servitudes, are issued by the Board subject to obtaining the consent of the relevant Traditional Authority.

The continued issuing of Permissions to Occupy is problematic in that there is a limited availability of records and data and only a few of the allocated sites have been surveyed. In addition the occupiers benefit from paying a nominal rather than a market related rent.

In the light of the Communal Land Rights legislation, the Board is reviewing the desirability of Permissions to Occupy continuing to issue and will make recommendations to the Minister accordingly.

#### **Communal Land Rights Act (Act 11 of 2004)**

Although the date of commencement of this Act has yet to be announced it is obvious that there will be many challenges that will need to be faced. The new order rights proposed in the Act will no doubt be the subject of debate and litigation and the functions of the Board will increase. The Act will reconstitute the Board as the Ingonyama Land Rights Board for KwaZulu-Natal. It will continue to own the land presently registered in its name and will have certain of the powers and responsibilities of the Minister in respect of the land. At the same time it will have to perform the functions of a normal Land Rights Board in respect of any other land subject to the Act within the Province.

The Board has commissioned a study to identify its future role and functions. The findings of the report will be shared with the Department of Land Affairs as it will assist them as and when other Land Rights Boards are established.

#### **Land Claims**

The Board is aware of land claims on Trust land and endeavours to cooperate with the Office of the Regional Land Claims Commission. It is important that these claims are speedily identified and settled. The lack of progress and clarity is prejudicing the finalisation of leases and the roll-out of development projects to the detriment of the various communities.

#### **Land Assets**

During the year the Board appointed a service provider to update its land tenure information and a land holdings assets register has now been completed. This identifies all properties registered in the Deeds Registry as at 31 March 2005. It does not include land still to be transferred from the Department of Land Affairs but does include land still registered in the name of the Trust that is to be transferred to the various local Municipalities and organs of state. The assets register will need continual updating to reflect these transfers and the changing extent of properties as and when titles are consolidated. Such changes in extent of landholdings are the result of re-survey, conversion from previous imperial to metric forms of measurement and changes in physical features on the land such as the alterations to river courses.

As at 31 March 2005 the assets register covers 1614 properties with a total extent of 2,703,840 hectares. The Assets Register will form the basis of a proposed Land Tenure Information System.



This will identify and provide a record of all real estate assets including titles, leases, PTOs and servitudes. This will enable rents to be updated, more accurate rent invoices to be issued and ownership and lease queries to be dealt with.

#### Legislation

The Board is aware of some 34 pieces of legislation that impact on its day to day work.

These include:

- Communal Land Rights Act (Act 11 of 2004)
- Mineral and Petroleum Resources Development Act (Act 28 of 2002)
- Municipal Property Rates Act (Act 6 of 2004)
- Traditional Leadership and Governance Framework Act (Act 41 of 2003)
- Public Finance Management Act (Act 1 of 1999).

The Board continues to comply and where appropriate comment on these laws. The Municipal Property Rates Act will apply to all Trust land and will impose additional financial burdens on already limited resources. The Traditional Leadership and Governance Framework Act will impact on the working of the Board as the Board operates within an environment closely interlinked with the institution of traditional leaders.

## 7. CONSTRAINTS

During the year the Board identified the following constraints:

- **Regulations**

The Board is subject to Administrative and Financial Regulations made in terms of the KwaZulu-Natal Ingonyama Trust Act, 1994 (as amended). These have become outdated in part and amendments have been proposed to the Minister. These will enable the Board to carry out its day to day activities more efficiently. The amendments are largely technical in nature and have been mainly necessitated by the requirements of the Public Finance Management Act, 1999. In terms of that Act the Board is a schedule 3A entity. The amendments have also been informed by experience over the last five years.

- **Debtor control**

The Auditor-General, in his report on the financial statements for the year ended 31 March 2004 raised certain qualifications relating to the debtors system then in place. The Board has therefore reviewed this system and is of the opinion that the measures now in place will meet the requirements of the Auditor-General.

- **Audit Committee**

It is a requirement of the Public Finance Management Act, 1999, read with Treasury Regulations that a public Entity, such as the Ingonyama Trust, must establish an Audit Committee. Such a Committee has now been appointed.

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- **Overall**

Having regard to the environment in which the Board operates it is considered that its mandate has been successfully executed during the year under review.

## 8. FUTURE OUTLOOK

The key to the future activities of the Trust must very largely be seen in the context of the Communal Land Rights Act, 2004. As noted elsewhere in this report the Board will become both an owner and a Land Rights Board. It is very important that the real estate and administration activities continue on behalf of the communities for whom the land is held in trust.

To this end the Board has prepared a Strategic Plan and the challenges arising from the dual functions of both landowner and Land Rights Board will be guided by that plan. No doubt the implementation of the Communal Land Rights Act, 2004 in tandem with the Ingonyama Trust Act, 1994, will teach new lessons and require innovation and adaptation. The Board will remain alert and sensitive to these fresh demands.

## 9. ACKNOWLEDGEMENTS

The Board wishes to record its appreciation to the following:

- The Minister for Agriculture and Land Affairs for her support of the activities of the Board.
- The Director-General and staff of the Department of Land Affairs for their continued support of the Board and its activities, in particular the KZN Provincial Director.
- The KZN Department of Local Government and Traditional Affairs.
- The Secretariat of the Ingonyama Trust Board for their administrative support.
- The Auditor-General and his staff who are responsible for auditing the financial statements. In particular, the Board is happy that they now seem to understand the unique problems and challenges facing the Board.
- The Parliamentary Land Affairs Portfolio Committee. Their guidance and understanding of the problems faced by the Board have been very helpful and useful.



## ANNUAL FINANCIAL STATEMENT

### Statement Of Board's Responsibility

The Board is responsible for the maintenance of adequate accounting records and the preparation and integrity of the financial statements and related information. The auditors are responsible for reporting on the fair presentation of the financial statements. The financial statements have been prepared in accordance with generally accepted accounting practice.

The Board is also responsible for the Trust's system of internal financial control. This is designed to provide reasonable but not absolute, assurance as to the reliability of the financial statements and to adequately safeguard, verify and maintain accountability of the assets, and prevent and detect misstatements and loss. Nothing has come to the attention of the Board to indicate that any material breakdown in the functioning of these controls, procedures and systems has occurred during the year under review.

The financial statements set out on pages 21 to 30 were approved by the Board members on 11 May 2005 and signed on its behalf.

### General Information

#### Members of the Ingonyama Trust Board

His Majesty the King (*Chairperson*)

Mr G.S.Thomas (*Vice Chairperson*)

Hon. Mr Justice S.J. Ngwenya

Adv.W.E.R. Raubenheimer

Mr B.L. Shabalala

Mr F. R. Brooks

Ms T. A. Shange

Ms J. T.J. Bhengu

#### Auditors:

Auditor-General

#### Bankers:

First National Bank – a division of First National Bank LTD

Peoples Bank – a division of Nedbank LTD

#### Registered Office:

188 Berg Street  
Pietermaritzburg  
3200

P.O. Box 601  
Pietermaritzburg  
3200

Tel: 033- 3554361  
Fax: 033- 3425045

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INGONYAMA TRUST BOARD

### Approval of Annual Financial Statements

The Annual Financial Statements for the year ended 31 March 2005 were approved by the Board.



Acting Chairperson

11 May 2005

Date



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## REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT on the financial statements of the Ingonyama Trust Board for the year ended 31 March 2005

### 1. AUDIT ASSIGNMENT

The financial statements as set out on pages 21 to 30 for the year ended 31 March 2005, have been audited in terms of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), read with sections 4 and 20 of the Public Audit Act, 2004 (Act No. 25 of 2004) and section 20 of the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3 of 1994). These financial statements, the maintenance of effective control measures and compliance with relevant laws and regulations are the responsibility of the accounting officer. My responsibility is to express an opinion on these financial statements, based on the audit.

### 2. NATURE AND SCOPE

Except as discussed in paragraph 3.1, the audit was conducted in accordance with the Statements of South African Auditing Standards. Those standards require that I plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement.

An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements,
- assessing the accounting principles used and significant estimates made by management and
- evaluating the overall financial statement presentation.

Furthermore, an audit includes an examination, on a test basis, of evidence supporting compliance in all material respects with the relevant laws and regulations which came to my attention and are applicable to financial matters.

I believe that the audit provides a reasonable basis for my opinion.

### 3. QUALIFICATIONS

#### 3.1 Limitation of scope

For matters reported under limitation of scope it was not feasible to perform alternative audit procedures in order to gain the required level of assurance on the account balances disclosed in the financial statements.

##### 3.1.1 Land holdings

During the year under review the Ingonyama Trust Board (Board) engaged the services of a registered land surveyor to update the asset register for those properties registered in the name of the Board as at 31 March 2005. The Board maintains that details of all the land on the asset register was compiled from data provided by the Registrar of Deeds.

Notwithstanding the above mentioned actions taken by the Board I report as follows:

- From a sample of 1 523 784.76 hectares of land, 574 166.49 hectares were verified to certified copies of title deeds. Consequently, 949 618.27 hectares could not be verified to certified copies of the title deeds.



## 5. EMPHASIS OF MATTER

Without further qualifying the audit opinion expressed above, attention is drawn to the following matters:

### 5.1 Contingent liability arrear rates – Municipalities

The Board has been invoiced over a number of years for rates due to municipalities for land owned within the Board's demarcated areas. The exact amount of this potential liability, owed to all these municipalities, could not be ascertained as no provision for this potential liability had been raised in the financial statements.

as a contingent liability in respect of this long outstanding matter.

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### 5.3 Weakness in internal control – segregation of duties

There was a lack of segregation of duties in the accounting function as the accountant performed the following incompatible functions due to a limited staff complement:

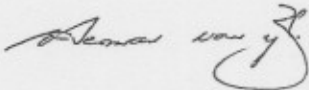
- VAT (preparation of returns),
- Processing of journals entries,
- Maintenance of the general ledger and
- Preparation of the financial statements.

### 5.4 Non compliance – Budget approval

The budget for the 2004-2005 financial year was not prepared and submitted to the executive authority, at least six months before the start of the financial year. This is in contravention of section 53(1) of the PFMA.

## 6. APPRECIATION

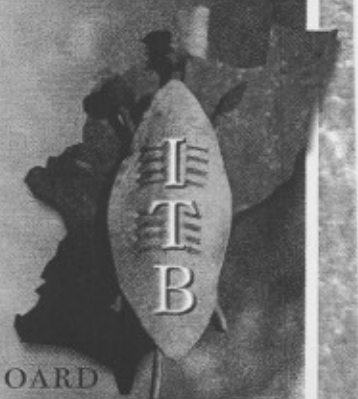
The assistance rendered by the staff of Ingonyama Trust Board during the audit is sincerely appreciated.



H van Zyl for Auditor-General  
Pietermaritzburg  
29 July 2005



A U D I T O R - G E N E R A L



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## Response of the Board to aspects of the Audit Report

The Board comments below on the issues raised in the Audit Report

### Land holdings

The Board notes that the auditors took a sample of properties for examination and testing purposes. As at 31 March 2005 the Trust prepared an asset register detailing 1614 properties presently registered in the deeds office in the name of the Ingonyama Trust. The asset register does not however include properties that are deemed to vest in the Trust but have not yet been registered. The asset register indicates the area in hectares of each property. These areas are as provided by the Registrar of Deeds except where there are obvious errors in which case the areas have been taken from the survey diagrams approved by the Surveyor-General.

It is noted that the auditors had difficulty in verifying some areas. This is because of the following:

- many of the titles date back over 100 years and reference therein is often to imperial or earlier measurements of area rather than the present day metric system. Some of these deeds cover multiple properties and have many endorsements reflecting transfers and sub-divisions.
- the Board is engaged in an on-going exercise of consolidation of titles. This means that the property descriptions and areas will have varied during the period between 31 March 2005 when the asset register was compiled and the date when the auditors undertook their examination and testing.

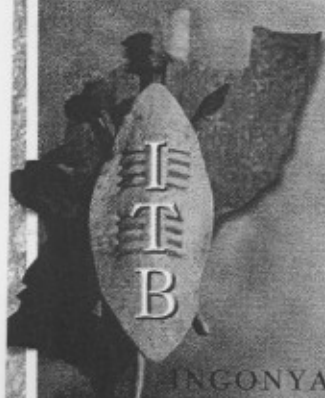
As part of the title consolidation exercise, cadastral surveys were carried out. Most of the Locations and Zululand Reserves were re-surveyed and substitution diagrams framed.

- The Board does not keep certified copies of all of its properties unless it is necessary. The originals were apparently lost or misplaced during the process of rationalising Deeds Offices subsequent to 1994. The Board does not intend to incur the considerable expense of obtaining certified copies of all title deeds as legal proof of ownership lies in the Deeds Registry records. Certified copies are obtained however for particular purposes, for example a court case.

It is intended during the financial year 2005/2006 to commission a Land Tenure Information System. As part of this system copies of each deed will be held and updated on a regular basis. This will ensure that a close reconciliation of areas can be made at any given time.

The auditors also noted that whilst the land holdings had been valued at R300 per hectare there was no supporting documentation to verify this valuation.

Whilst the extent of land controlled by the Trust stands at 2,703,840 hectares as at 31 March 2005, this figure is changing on a day to day basis as land is being transferred both into and out of the Trust.



To value every hectare in detail would therefore be both fruitless and expensive at this stage. An average rate of R300 per hectare has been taken for balance sheet purposes to reflect the following:

- the diverse uses and physical characteristics of the land;
- the lack of availability of infrastructure;
- occupations – through customary allocations and statutory rights;
- Communal land does not change hands as frequently as privately owned land and there is therefore little or no market evidence available.
- the fact that the land has in any event a restricted market value due to the restrictions placed by section 2 (5) of the KwaZulu Ingonyama Trust Act (Act 3 of 1994)
- the on – going changes to the extent of the landholdings;
- the implementation of the Municipal Property Rates Act (Act 6 of 2004) will require valuation rolls to be prepared on all land within a Municipal area. This will include Ingonyama Trust land and the various Municipalities will have to find a way of establishing a value.

Finally the auditors note that supporting documentation to substantiate the decrease of R32,852,700 could not be submitted for audit purposes. This decrease reflects the difference in areas as at 31 March 2005 compared to 31 March 2004 at a value of R300 per hectare.

The decrease is attributable to the following:

- The 2004 totals included the properties that vest in the Ingonyama Trust but have not yet been endorsed across in ownership.
- The 2004 totals excluded the townships that vest in the various municipalities but have not yet been endorsed across in ownership.
- Some of the areas shown on the 2004 schedule cannot be individually identified, since they do not relate to a specific property.
- The Deeds Office records have excluded the remaining extent on some properties when there has been a subdivision.
- Most of the Locations and Zululand Reserves have been re-surveyed and substitution diagrams framed. The revised areas have not yet always been noted by the Deeds Office as the endorsements cannot be made on the title deeds until the substitution diagrams have been lodged by the Ingonyama Trust as part of the on – going consolidation exercise.

#### **Contingent liability: arrear rates**

The auditors have noted with concern that an accumulated amount in the region of R25 million in respect of rates in arrears claimed by eThekweni Municipality is shown as a contingent liability.

Whilst the Board refutes liability in most instances, it continues to address this important issue with the Municipality in a spirit of co-operation. Recently the Municipality has again revised its claim in a downwards direction to R14,000,000 excluding penalties.

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**Completeness of income**

We concur with the report of the Auditor General regarding this matter. The Board has issued thirty six mining leases throughout Kwa-Zulu Natal. Mining companies are requested to furnish to the Trust affidavits regarding actual extractions on a quarterly basis.

The Board is unable to monitor the actual volumes of minerals removed, as this would mean employing personnel at each site. However, the Board has employed a service provider to conduct a periodic inspection of the sites in order to reasonably agree the volumes removed to what has been declared, paying special attention to stockpiles of minerals removed and also environmental issues.

Further to the above, in terms of the relevant lease agreements the Trust will request the inspection of mineral extraction records.

The above measures will assist the Trust to regulate significant irregularities regarding declarations by mining companies and assure greater completeness of income.

**Internal Audit Committee**

The Board has appointed an Audit Committee subsequent to 31 March 2005.

The Board has also approved the Audit Committee terms of reference and the Internal audit charter for the internal audit function.

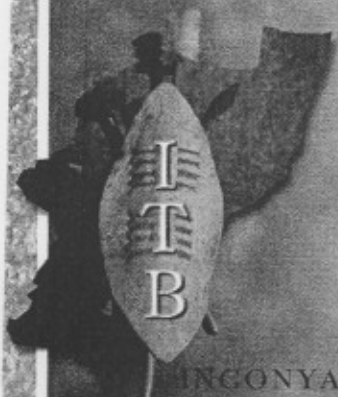
**Weakness in internal control – segregation of duties**

The Ingonyama Trust Board has a small staff complement managing the accounting function. The need to employ further staff will be investigated to gain better accounting controls.

**Non- Compliance - Budget Approval**

In respect of the 2004/2005 year, the Board had approved the budget only a few days after the deadline date.

Adequate steps have been taken to ensure that future budgets be finalised within the required time.



## Balance Sheet as at 31 March 2005

		2005 R	2004 R
Asset	Note		
<b>Non-current assets</b>		811,383,626.56	844,279,676.58
Land holdings	1	811,164,037.05	844,004,737.05
Plant and equipment	2	219,589.51	274,939.53
<b>Current assets</b>		83,994,759.10	76,846,729.01
Trade and other receivables	3	1,272,276.44	3,234,775.55
Cash and cash equivalents	4	82,722,482.66	73,611,953.46
<b>Total Assets</b>		<b>895,378,385.66</b>	<b>921,126,405.59</b>
<b>Equity and liabilities</b>			
<b>Capital and reserves</b>		887,640,992.35	920,477,984.17
Land holdings capital account		811,164,037.05	844,164,300.00
Pre-establishment income	5	2,584,245.85	2,584,245.85
Non-distributable reserve	6	3,028,368.81	2,868,805.85
Distributable reserve		70,864,340.64	70,860,632.47
<b>Current liabilities</b>			
Trade and other payables	7	545,380.52	638,643.16
Provisions	8	7,192,012.79	9,778.26
<b>Total Equity and Liabilities</b>		<b>895,378,385.66</b>	<b>921,126,405.59</b>



### Income Statement for the year ended 31 March 2005

	2005 R	2004 R
<b>Income</b>		
<b>Rental Income</b>	847,014.27	702,790.08
Permission to occupy ( General )	151,449.00	111,240.90
Permission to occupy ( Commercial )	7,222.68	3,322.56
Leases	688,342.59	588,226.62
<b>Royalty income</b>	6,971,861.64	9,267,129.97
<b>Other income</b>	4,740,205.89	6,210,593.93
Investment income	4,489,798.91	5,960,579.45
Grant-in- aid receipts	231,469.07	227,244.57
Other	18,937.91	22,769.91
<b>Total income</b>	<b>12,559,081.80</b>	<b>16,180,513.98</b>
<b>Expenses</b>	(12,555,373.63)	(1,884,807.37)
Administration and other expenses including provisions	12,206,670.77	1,540,429.34
Expenses - grant- in-aid expenditure	348,702.86	344,378.03
<b>Net income for the year</b>	<b>3,708.17</b>	<b>14,295,706.61</b>

**Statement of changes in equity**  
**31 March 2005**

	Distributable reserve	Land holdings capital account	Pre- incorporation income	Non distributable reserve	Total
	R	R	R	R	R
Balance: 01.04.2004	70,860,632.47	844,164,300.00	2,584,245.85	2,868,805.86	920,477,984.18
Land holdings adjustment	-	(33,000,262.95)	-	159,562.95	(32,840,700.00)
Net Income for the year	3,708.17	-	-	-	3,708.17
<b>Balance : 31.03.2005</b>	<b>70,864,340.64</b>	<b>811,164,037.05</b>	<b>2,584,245.85</b>	<b>3,028,368.81</b>	<b>887,640,992.35</b>

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### Cash flow statement for the year ended 31 March 2005

	Note	2005 R	2004 R
<b>Cash flows from operating activities</b>		9,110,529.19	11,647,664.56
Cash generated by operating activities	I	4,620,730.28	5,687,085.11
Interest received		4,489,798.91	5,960,579.45
<b>Cash flows from investing activities</b>			
Additions to fixed assets		-	(269,452.38)
<b>Cash flows from financing activities</b>			
Increase in distributable reserve		-	291,377.23
Increase in cash and cash equivalents		9,110,529.19	11,669,589.41
Cash and cash equivalents at beginning of the year		73,611,953.47	61,942,364.05
<b>Cash and cash equivalents at end of year</b>		<b>82,722,482.66</b>	<b>73,611,953.46</b>
<b>Notes to the Cash Flow Statement</b>			
I	<b>Cash generated by operating activities</b>		
	Net profit for the year	3,708.17	14,295,706.61
	Investment income	(4,489,798.91)	(5,960,579.45)
	<b>Adjustments for non cash items</b>		
	Depreciation	55,350.02	3,527.19
	Increase in provisions	7,182,234.53	-
		2,751,493.81	8,338,654.35
	<b>Movements in working capital</b>		
	Decrease in accounts receivable	1,869,236.47	(2,651,569.24)
	Decrease in accounts payable	1,962,499.11	(2,760,963.97)
		(93,262.64)	109,394.73
		4,620,730.28	5,687,085.11





## Notes to the financial statements - 31 March 2005

### Accounting policies

#### Basis of preparation

The Annual Financial Statements are prepared in accordance with the South African Generally Accepted Accounting Practice. The Financial Statements are prepared on the historical cost basis and incorporate the following accounting policies which have been applied on a basis consistent with that of the previous year.

#### 1. Land Holdings

- 1.1 Only land actually registered in the name of the Trust as at 31 March 2005 has been brought to account.
- 1.2 Land is valued for the purpose of these financial statements at R300 per hectare and is not depreciated.

#### 2. Plant and equipment and depreciation

Assets are depreciated on the diminishing balance basis at the following rates :

Motor vehicle	20.00% p.a
Furniture	20.00% p.a
Computer equipment	33.33% p.a

All the other furniture and fittings, computer equipment that are used by the Trust have been acquired by the Department of Land Affairs at no cost and therefore are not depreciated.

#### 3. Income

All income has been accounted for on the accrual basis.

#### 4. Land sales

Proceeds from the sale of land taken over from other government departments at the time of the formation of the Trust is regarded as being of a capital nature and such proceeds are transferred to the non - distributable reserve- land sales.

#### 5. Expenditure

Expenditure has been accounted for on the accrual basis.

#### 6. Grant in aid income and expenditure

Grant in aid income and expenditure has been accounted for in the financial statements.  
(See page 29.)

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## Notes to the financial statements - 31 March 2005

## 1. Land Holdings per deed office registration divisions

Divisions	Area in Hectares	
	2005	2004
ES	33,586	34,586
ET	164,876	238,847
FS	80,203	106,996
FT	372,934	202,003
FU	95,365	30,499
GS	102,889	105,097
GT	413,889	499,457
GU	543,960	671,561
GV	77,555	77,555
HT	28,703	23,041
HU	336,106	397,766
HV	452,357	425,941
Townships	1,457	-
	2,703,880	2,813,349
Valuation at nominal value of R300 per hectare	<b>R 811,164,000.00</b>	<b>844,004,700.00</b>

## 2. Plant and equipment

	Cost	Accumulated depreciation	Net book value
Computer equipment	15,811.11	13,999.93	1,811.18
Furniture and fittings	9,691.00	6,529.65	3,161.35
Motor vehicle	269,452.38	54,835.40	214,616.98
	294,954.49	75,364.98	219,589.51
The fixed assets are reconciled as follows:	Book value	Depreciation	Book value
	31.03.2004		31.03.2005
Computer equipment	2,716.62	905.44	1,811.18
Furniture and fittings	3,951.69	790.34	3,161.35
Motor vehicle	268,271.22	53,654.24	214,616.98
	274,939.53	55,350.02	219,589.51

	2005 R	2004 R
<b>3. Trade and other receivables</b>		
<b>3.1. Trade Debtors</b>	<b>1,251,657.46</b>	<b>3,234,775.55</b>
Debtors for royalties	1,239,462.51	3,134,627.60
Leases and commercial PTO's	350,855.21	199,426.99
	1,590,317.72	3,334,054.59
Less : Provision for doubtful debts	(338,660.26)	(99,279.04)
<b>3.2. Sundry debtors and vat</b>	<b>20,618.98</b>	<b>-</b>
	<u>1,272,276.44</u>	<u>3,234,775.55</u>
<b>4. Cash and cash equivalents</b>		
Current Accounts	37,606,765.36	31,750,045.09
Call account / fixed deposit	44,652,938.09	41,516,172.52
Accrued interest	462,315.08	345,718.41
Petty cash	464.13	17.44
	<u>8 2,722,482.66</u>	<u>73,611,953.46</u>
<b>5. Pre-establishment income</b>		
This amount represents income collected by KwaZulu Finance Corporation which income related to the period prior to 01/04/94.	<u>2,584,245.85</u>	<u>2,584,245.85</u>
<b>6. Non-distributable reserve - land sales</b>		
	<u>3,028,368.81</u>	<u>2,868,805.85</u>
<b>7. Trade and other payables</b>		
Surface restoration deposits	-	55,800.00
Advance Proceed on land disposal	77,600.00	77,600.00
Vat	-	373,547.73
Trade creditors	247,866.52	131,695.43
Advance payments by debtors	219,914.00	-
	<u>545,380.52</u>	<u>638,643.16</u>



	2005 R	2004 R
<b>8. Provisions</b>		
Audit Fee - Carrying value at end of year	50,529.24	9,778.26
Carrying value at beginning of year	9,778.26	144,550.91
Less : payments	(8,494.34)	(61,351.83)
Less : reversal of previous years overprovision	(1,283.92)	(83,199.08)
Current year provision	50,529.24	9,778.26
Disbursement of funds to Traditional Authorities		
Current year provision	7,141,483.55	-
	<u>7,192,012.79</u>	<u>9,778.26</u>

### 9. Contingent Liability - Rates

The claims relate to rates owing lodged by municipalities amounting to approximately R25 000 000.00 which will be significantly reduced once the correct amounts are determined.

The Trust is unable to estimate the probable amount payable in the unlikely event of the claims being valid as there are discrepancies regarding land ownership and valuations etc.

### 10. Commitment - Disbursement of funds to Traditional authorities

In 2004, the Board approved twenty two million rands for Traditional Authority projects. An amount of R 10 612 880 is still committed apart from the provision of R 7 141 483.55 raised as a provision in the current years Financial statements.

### 11. Board Member's Remuneration

Attendance of meetings & Board work	59,905.46	83643.58
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## Detailed income and expenditure for the year ended 31 March 2005

	2005 R	2004 R
<b>Income</b>		
Permission to occupy - general	151,449.00	111,240.90
Permission to occupy - commercial	7,222.68	3,322.56
Leases	688,342.59	588,226.62
<b>Net rental income</b>	<b>847,014.27</b>	<b>702,790.08</b>
Other income	18,937.91	22,769.91
	<b>865,952.18</b>	<b>725,559.99</b>
Royalties and prospecting income	6,971,861.64	9,267,129.97
Investment income	4,489,798.91	5,960,579.45
<b>Total income</b>	<b>12,327,612.73</b>	<b>15,953,269.41</b>
<b>Expenditure</b>		
Accounting fees overprovision previous years	-	(100,000.00)
Advertisements	4,194.63	-
Audit fees	49,245.32	(73,578.68)
current	50,529.24	9,620.40
overprovision previous years	(1,283.92)	(83,199.08)
Bank charges	12,715.59	5,357.51
Bad debt written off	-	272,839.00
Depreciation	55,350.02	3,527.19
Facilitation	-	18,000.00
Insurance	12,570.08	-
Legal fees	14,697.00	109,418.92
Motor vehicle expenses	4,004.91	-
Other expenses	4,967.65	6,385.28
Traditional Authority disbursements	3,928,254.48	648,792.88
Provision - disbursement of funds to Traditional Authorities	7,141,483.55	-
Provision - doubtful debts	311,717.22	99,279.04
Secretariat administration fees	658,047.41	540,566.44
Travelling expenses	9,422.91	9,841.76
<b>Net income for the year</b>	<b>120,941.96</b>	<b>14,412,840.07</b>



**Detailed Grant- in- Aid income & expenditure for the year ended  
31 March 2005**

	2005 R	2004 R
<b>Income</b>		
Transfer payments received	225,000.00	219,000.00
Investment Income	6,469.07	8,244.57
<b>Total income</b>	<b>231,469.07</b>	<b>227,244.57</b>
<b>Expenditure</b>		
Bank charges	1,905.37	1,916.40
Board members remuneration	59,905.46	83,643.58
Entertainment	-	125.00
Legal fees	-	1,882.86
Travel and accomodation	286,892.03	247,978.28
Transfer payment	-	8,831.91
<b>Net expenditure for the year</b>	<b>117,233.79</b>	<b>117,133.46</b>
expenditure included in accounts payable	92,166.98	38,331.81
expenditure funded by reserves	25,066.81	78,801.65

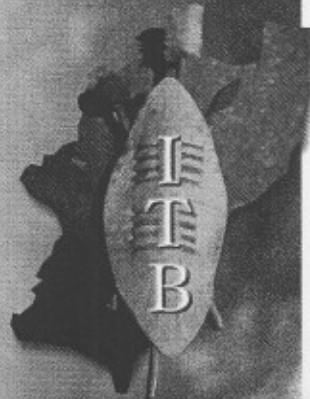


INGONYAMA TRUST BOARD

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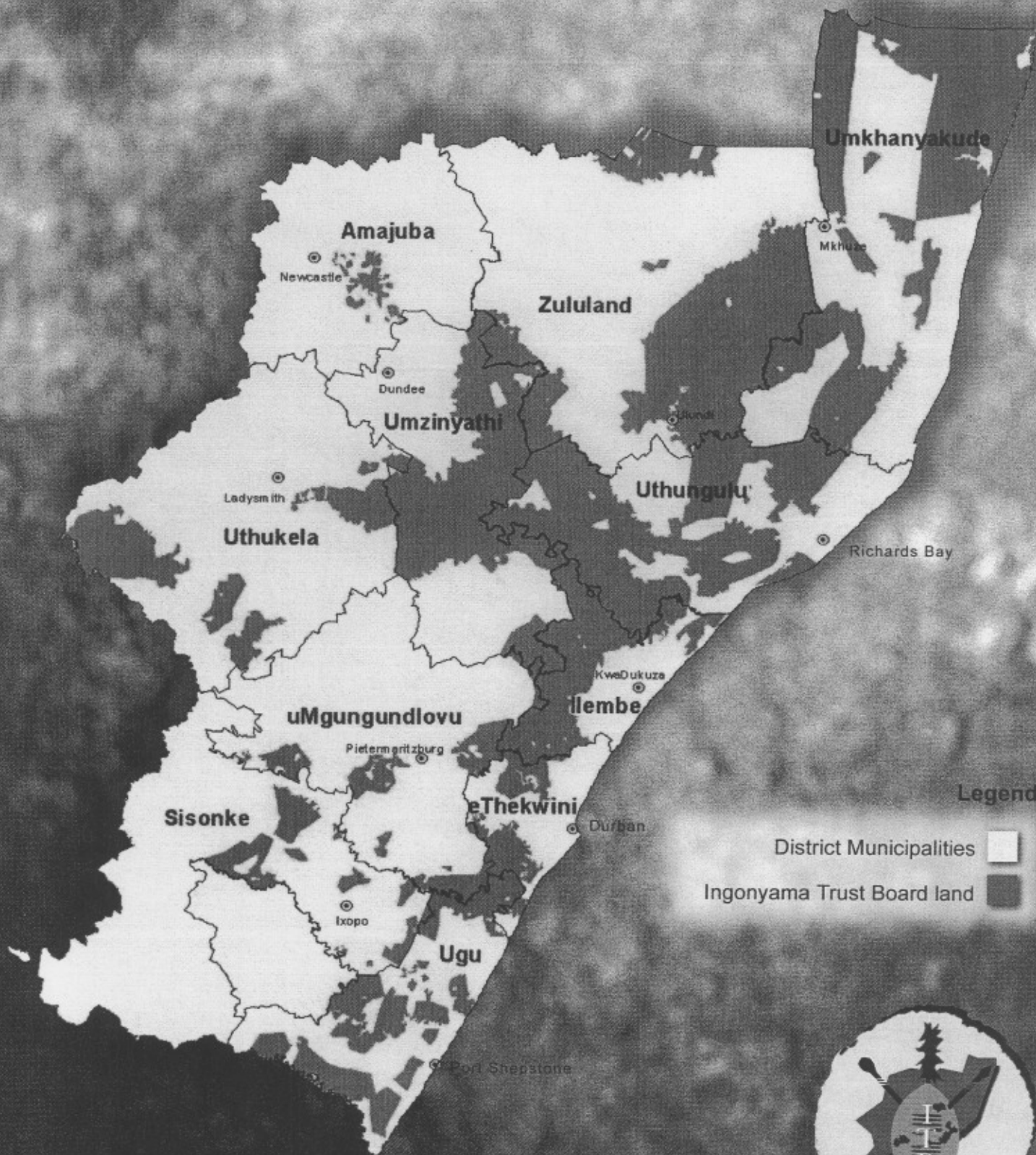
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# INGONYAMA

TRUST LAND

WITHIN KWAZULU-NATAL



Area of ITB land within KZN = 29 000 km<sup>2</sup> (approx)

