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IPHONDO LEMPUMA KOLONI  
PROVINSIE OOS-KAAP

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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS****GENERAL NOTICE 36 OF 2021****Nelson Mandela Bay Municipality (EASTERN CAPE)****Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)****ERF 868, SUMMERSTRAND, PORT ELIZABETH, EASTERN CAPE**

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that condition/s **C.(e),(i), (ii), (iii), (iv) and D.(b), (c), (d)** in Deed of Transfer

No. **T3398/2012** and any subsequent Deed applicable to Erf **868, Summerstrand** is/are hereby removed.

**PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS**

**PROVINCIAL NOTICE 151 OF 2021**

**PROVINCE OF THE EASTERN CAPE**

**PROVINCIAL NOTICE**

**OFFICE OF THE PREMIER**

**NO.**

**WHITE PAPER ON THE EASTERN CAPE SOCIO ECONOMIC  
CONSULTATIVE COUNCIL LEGISLATION**

The White Paper on Eastern Cape Socio Economic Consultative Council legislation which was approved by the Executive Council on the 29<sup>th</sup> September 2021 is hereby published for general information.

# **WHITE PAPER FOR THE EASTERN CAPE SOCIO- ECONOMIC CONSULTATIVE COUNCIL**

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## 1. FOREWORD BY THE PREMIER

## 2. LIST OF ABBREVIATIONS / ACRONYMS

AG	AUDITOR-GENERAL
BKCOB	BORDER-KEI CHAMBER OF BUSINESS
CEO	CHIEF EXECUTIVE OFFICER
EA	EXECUTIVE AUTHORITY
ECAC	EASTERN CAPE AIDS COUNCIL
ECNGOC	EASTERN CAPE NGO COLIATION
ECSECC	EASTERN CAPE SOCIO-ECONOMIC CONSULTATIVE COUNCIL
EXCO	EXECUTIVE COUNCIL
GTAC	GOVERNMENT TECHNICAL ADVISORY CENTRE
IDP	INTEGRATED DEVELOPMENT PLAN
MEC	MEMBER OF EXECUTIVE COUNCIL
MTEC	MID-TERM EXPENDITURE COMMITTEE
MTEF	MID-TERM EXPENDITURE FRAMEWORK
NAFCOC	NATIONAL AFRICAN FEDERATED CHAMBER OF COMMERCE
NDP	NATIONAL DEVELOPMENT PLAN
NEDLAC	NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL
NEPF	NATIONAL EVALUATION POLICY FRAMEWORK
NMBCIC	NELSON MANDELA BAY CHAMBER OF INDUSTRY & COMMERCE
OTP	OFFICE OF THE PREMIER
PDP	PROVINCIAL DEVELOPMENT PLAN
PEP	PROVINCIAL EVALUATION PLAN
PFMA	PUBLIC FINANCE MANAGEMENT ACT
PRF	PROVINCIAL REVENUE FUND
SALGA	SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION
SLA	SERVICE LEVEL AGREEMENT

### 3. DEFINITION OF TERMS AND CONCEPTS

Concept	Definition
Catalytic project	A project where a targeted intervention is assumed, according to set methodology or criteria, to have the potential to shift the socio-economic landscape, and/or trigger a series of investments across several sectors, and/or trigger primary and secondary economic and social responses and achieve a broader transformation objective.
Development agenda	A development agenda is an agreed action plan on the set of issues that are the subject of debate and decision making among the stakeholders of ECSECC at any one time.
Innovation	Innovation is the process of transforming an idea, generally generated through R&D, into a new or improved product, service, process or approach and which involves scientific, technological, organisational or business activities.
Long term plan	A long term plan sets long term social and economic vision and goals and is focused on the structural and institutional changes required to change historical trajectories, disrupting path dependency and its socio-spatial manifestations. A long term plan generally covers timeframes from 10-50 years. In the South African planning system, a long term plan is understood as a plan with any time horizon beyond 5 years.
Planning	The Department of Planning, Monitoring and Evaluation (DPME) defines planning in the context of the South African government as "a continuous process which involves decisions or choices made by South African government departments and officials about alternate ways of using available resources with the aim of achieving particular development goals in future" (DPME, 2017: 3).
Policy advice	Provision of recommendations on any public policy matter, developed through a rigorous scientific and participatory methodology as determined by the entity.
Project packaging	Project packaging is inclusive of project planning and preparation to determine the feasibility of proposed capital and/or other catalytic projects, and to mobilise the inputs that will enable its feasibility.
Sector Council	Sector Councils shall consist of members of constituencies based on priorities and the nature of challenges to be addressed, but the emphasis should be on action-oriented multi-agency compacts
Social compact	A process soliciting and ensuring societal support for national or regional development vision and programmes or an agreement between social partners to solve a development, social or economic problem.
Stakeholder	A stakeholder is any individual or group that has an interest in any decision or activity of the entity. Examples of stakeholders are individuals and institutions that are members of the Sector Councils, the shareholder, directors, regulatory institutions, employees, suppliers and citizens.
Sustainable development	The United Nations define sustainable development as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. For sustainable development to be achieved, it is crucial to harmonize three core elements: economic growth, social inclusion and environmental protection. These elements are interconnected and all are crucial for the well-being of individuals and societies.
Technical support	Provision of advisory and project management support to stakeholder institutions.



## 4. INTRODUCTION

The Eastern Cape Socio-Economic Consultative Council (ECSECC) was born out of the April 1995 stakeholder declaration of the Eastern Cape Summit for Economic Reconstruction and Growth, signed by representatives of government, business, labour and NGOs. ECSECC was set up to be a joint body of the parties signing the declaration. The establishment of ECSECC as a joint body was aimed at bringing the shared vision of stakeholders into reality. A resolution of the Executive Council (EXCO) in 1995 led to the establishment of ECSECC as a multi-stakeholder council.

According to the Founding Document, ECSECC was established primarily to assist the Office of the Premier and the Provincial Government to achieve the following:

- a) Advise and assist the provincial government to achieve an integrated development strategy for the Province and its constituent regions to address the economic development of the Province, particularly the needs of deprived communities and underdeveloped areas;
- b) Facilitate and coordinate the implementation of development programmes between all key stakeholders in the Province;
- c) Facilitate development by providing an avenue for formal input into the policy-making process of government;
- d) Support government in advancing efficient service delivery;
- e) Empower communities and the grassroots structures of civil society to engage in development; and to
- f) Assist the provincial government in developing policies and strategies that will facilitate the growth of the provincial economy.

The establishment and form of ECSECC emulated that of the National Economic Development and Labour Council (NEDLAC) as a vehicle by which government, labour, business and community organisations will seek to cooperate, through problem-solving and negotiation, on economic, labour and development issues, and related challenges facing the country. NEDLAC was established in law through the National Economic Development and Labour Council Act, Act 35 of 1994. ECSECC has not been established in terms of law or an Act of the Eastern Cape Legislature.

The ECSECC White Paper seeks to provide the policy basis for the development of enabling legislation for ECSECC. Furthermore, the White Paper and legal frameworks will assist in providing a clearly articulated purpose and mandate for the entity.

## 5. PROBLEM STATEMENT

### 5.1 The Legal Status of ECSECC

ECSECC was established as a partnership between government, organised business, organised business and NGOs to drive the development agenda in the Eastern Cape Province. ECSECC was established through a declaration of the Eastern Cape Summit for Economic Reconstruction and Growth, signed 7 April 1995. The parties signed the founding document on 31 July 1995.

In November 1999 the entity was registered as a Section 21 non-profit entity that would primarily play a consultative and advisory role to the provincial government, concerning economic activities in the Province, as per its founding mandate. The memorandum and articles of incorporation of ECSECC set out the membership and chairpersonship of the Board of Directors and all governance arrangements, compliant with the Public Finance Management Act and the Companies Act. As a compliant entity, the company registration has been maintained and adjustments made in line with the Companies Act (as amended).

With regards to the Public Finance Management Act (PFMA), ECSECC was listed as a Schedule 3C entity in 1999. The co-operation and accountability arrangement between the

Office of the Premier and ECSECC is currently being managed through a Service Level Agreement (SLA) and other reporting mechanisms as per applicable legislation and regulations. ECSECC accounts to the parent or controlling department and Legislature accordingly. ECSECC has a good record of governance and has received an unqualified audit opinion from the Auditor General, with no matters, for eight successive years.

A review of Public Entities in the Eastern Cape conducted by Government Technical Advisory Council (GTAC) in 2015 found the absence of legal provision for ECSECC constituted an anomaly in terms of the PFMA and therefore recommended that the OTP develops enabling legislation for ECSECC to regularise the existence of ECSECC. Due to various constraints in the Province, the scope of ECSECC has broadened over the period since its establishment and eventually included a broad range of aspects. This included supporting the local government sphere in planning as a critical tool towards enabling effective and efficient service delivery. ECSECC has been expected to play a significant role in supporting municipalities to develop credible Integrated Development Plans (IDPs), while also participating in the strategic planning processes for provincial government departments and entities. ECSECC was also tasked with the responsibility of coordinating multi-sectoral stakeholders including establishing, hosting and supporting the Eastern Cape Aids Council (ECAC) as well as the Human Resources Development Council. In addition to these, ECSECC also responded to various forms of requests for assistance from other institutions and stakeholders. The major challenge that ECSECC White Paper seeks to address is to formalise the functioning of ECSECC through the formulation of the legislative framework as well as to deliver on additional functions, in line with the developmental needs of the province. It is thus necessary to clearly define the purpose and mandate of ECSECC.

## 5.2 Building Trust Through a Shared Development Agenda

The National Development Plan, adopted by the government in 2012, states that South Africa can only realise its goals by drawing on the energies of its people, growing an inclusive economy, building capabilities, enhancing the capacity of the state, and promoting leadership and partnerships throughout society. The plan states that successful implementation requires strong and active citizenry and collective leadership from government, business, labour and civil society, thus recognising the importance of partnerships. Social compacting, social partnerships and broad-based coalitions are at the centre of South Africa and Eastern Cape's development strategies, governance models and more recent efforts to respond to and recover from the Covid-19 pandemic.

In terms of the Provincial Development Plan (2014/2020), the provincial vision and long-term plan are intended to mobilise all citizens and sectors of the Eastern Cape around a common vision. The aim is to provide an opportunity for revisiting social partnerships and the development of common goals among citizens, civil society, the state and the private sector. The plan also seeks to promote mutual accountability between stakeholders and to enable the coherence of the three spheres of the state.

However, the National Planning Commission (NPC) in its research on social compacts (2015) and the 2020 review of the NDPs implementation argues that although the NDP had broad stakeholder and societal support after its adoption, this did not translate into robust implementation, and the envisaged broad social compact behind the Plan did not emerge. There is evidence and consensus that past and current approaches to social compacting have yielded less than desired results, but that social compacts nonetheless are required for addressing current and future development challenges.

Governance challenges contribute to uneven performance and one of the resultant effects is often declining public trust and confidence. Given such context, there is an acute need for the improvement of governance in the Province as well as to collaborate and integrate the work of government within and across the various spheres of government, including stakeholders outside government. The Eastern Cape, through ECSECC, has got extensive experience with social compacting over the past 25 years. Research and assessment reports published by

ECSECC indicate that due to a long history of dispossession and exclusion, summits, indibano or similar consultative processes and platforms remain a critical model for social compacting and rallying consensus around key priorities and programmes for social and economic development. There has historically been unanimous agreement about this fact across all social partners. However, stakeholder engagements should not be once-off events but need to be re-convened at intervals as a means of monitoring progress and as a means of re-affirming commitments to local social and economic priorities. There is also a need to mobilise resources and implementation capacities beyond the confines of government in a fiscally constrained environment.

The enabling legislation for ECSECC should thus respond to the continued need for a shared engagement platform, to rebuild public trust and creating new approaches to social compacting.

### 5.3 Knowledge-based planning and decision making

South Africa has a firm institutional architecture and policy framework guiding short- and medium-term planning. The Department of Planning, Monitoring and Evaluation (DPME) defines planning in the context of the South African government as “a continuous process which involves decisions or choices made by South African government departments and officials about alternate ways of using available resources with the aim of achieving particular development goals in future” (DPME, 2017: 3). In the South African system, long term planning is understood as any time horizon beyond 5 years. The national planning framework defines the National Development Plan (2030) (NDP) as the long-term plan for South Africa, however, provides limited guidance for long-range planning. Long term plans with a time horizon beyond the NDP does exist at the sectoral and institutional level, and the framework for the District Development Model requires all districts to develop a 25-year plan, a 5-year plan and annual plans. Long term planning, defined as 10 years and more, is largely absent from this policy framework, outside of the National Planning Commission.

Long term planning generally covers timeframes from 10-50 years and sets long term social and economic vision and goals and is focused on the structural and institutional changes required to change historical trajectories, disrupting path dependency and its socio-spatial manifestations. In a regional and development planning context, long term planning is also aimed at creating a shared long-term vision. Long term planning provides an opportunity for thinking through and ultimately addressing key challenges that will take a long time to address, such as managing population dynamics, migration, urbanisation and settlement trends, inequality, climate change, affecting changes to economic structure etc. A long-term plan at the regional level enables coordinated, cross-sector, multi-issue development of a region that informs shorter-term plans and initiatives. Long term planning enables a more holistic, sustainable and resilient outlook and should also be concerned with considering the long term effects of decisions. Such concerns include e.g. environmental sustainability, intergenerational fairness and implications for spatial dynamics.

Further, the current context can be characterised as one of turbulence, unpredictable uncertainty, novelty, and ambiguity uncertainty, or TUNA. Even pre- Covid-19, a volatile and changing uncertain context included international mega-trends and issues such as climate emergency; economic disruption; rapid digital transformation; growing international tensions; polarisation and declining trust. Going forward, assumptions underpinning planning, and in particular, a blueprint/master plan approach to planning needs to be revisited. Long term vision and thinking remain important, however, planning has to adapt to and better enable the state and its institutions to prepare for the unexpected.

The National Planning Commission (NPC) carried out a diagnosis of the planning system in South Africa (2015) and articulates the linkage between the planning system and the achievement of development outcomes in terms of the challenge of building a planning system that is state-led but that is also truly societal, bringing together the different segments of society in a genuinely participatory and collaborative process. The NPC recognise the need



to strengthen the collective processes that accompany planning as well as the capacity for undertaking planning. The NPC further argue that the objective of improving the South African planning system “should be to shift the planning system away from the current compliance focus towards strategising on how to further our developmental objectives” (NPC, 2015: 8). Long term and strategic planning must be informed by appropriate data, analysis and knowledge to accurately specify the problems impacting its developmental mandate and to develop scientifically sound and innovative programme interventions to resolve these problems. This requires the building of institutional capability within the state as well as the establishment of new knowledge partnerships with higher education institutions. Universities can assist the government to collect reliable evidence to provide data for planning and close critical knowledge gaps.

Thus, there is a need for the province to establish one dedicated, central capability with a focus on long term strategic planning that is also societal and poised to leverage resources outside of the state. Three core capabilities will be required viz Research and information management; Strategy development and strategic planning capabilities; programme management capabilities; Stakeholder dialogue, engagement and management capabilities.

## 6. OBJECTIVE OF THE ECSECC WHITE PAPER

ECSECC White Paper seeks to provide the policy basis upon which ECSECC may be established. In essence, the White Paper provides a basis for the drafting and development of enabling legislation for ECSECC as a Public Entity in the Eastern Cape.

## 7. REGULATORY FRAMEWORK

### 7.1 Legislative Frameworks

ECSECC will be a public entity that will, inter alia, assist the Provincial government in the development of long term plans of the Province to facilitate economic growth and sustainable development, that falls within the ambit of Schedule 4 of The Constitution of the Republic of South Africa, 1996 which provides for functional areas of concurrent national and provincial legislative competence.

The entity's functioning will be guided by the following legislation:

- a) Constitution of the Republic of South Africa, 1996 (as amended)
- b) Public Finance Management Act, 1999 (as amended)
- c) Promotion of Administrative Justice Act, 2000
- d) Promotion of Access to Information Act, 2000
- e) Protection of Personal Information Act 4 of 2013,
- f) Any other relevant legislation.

### 7.2 Policy Frameworks

In addition to the above, the following policy and legislative frameworks of Government pertaining to Planning, Monitoring, Reporting and Evaluation will need to be complied with.

#### 7.2.1 Planning

In line with section 2.6.9 of the Revised Framework for Strategic Plans and Annual Performance Plans, ECSECC, as a public entity will:

- a) Ensure that government priorities are incorporated into its short and medium-term plans.

- b) Submit draft and final Strategic Plans and Annual Performance Plans to its oversight department within prescribed timeframes.
- c) Establish processes that take consolidated recommendations from the oversight department into consideration to improve the quality of the plans.

### 7.2.2 Monitoring and Reporting

The OTP will oversee the Eastern Cape Socio-Economic Consultative Council, as its public entity.

In line with Treasury Regulations Chapter 5 (5.3.1) and [Section 27(4) read with 36(5) of the PFMA], the Accounting Officer of ECSECC will establish procedures for quarterly reporting to the Executive Authority to facilitate effective performance monitoring, evaluation and corrective action.

Furthermore, the provisions of the PFMA for reporting against predetermined measurable objectives contained in short and medium terms plans will be considered.

ECSECC will prepare the annual report and the financial statements in terms of section 55 of the PFMA and, together with the report of the auditor on the financial statements, submit it to the Provincial Treasury, the Premier and the Auditor-General if the Auditor-General did not audit the financial statements.

ECSECC will conduct monitoring, reporting and evaluations in line with the public sector prescripts and also report to the Legislature oversight bodies at the prescribed times for reporting.

Notwithstanding the provisions above, the Executing Authority may, at any time, request the Board to submit to him or her, within a period determined by the Premier, an interim report pertaining to the state of affairs, the activities, the operations, and the financial position of the Agency or pertaining to any specific matter identified by the Premier.

### 7.2.3 Evaluations

The National Evaluation Policy Framework (NEPF), which was approved in 2011 and revised in 2019 by National Cabinet, requires that the Office of the Premier (OTP) facilitate the development and implementation of the Provincial Evaluations Plan (PEP) that includes Provincial Departments, their Public Entities and the District Municipalities. The revised framework also requires these institutions to budget a percentage of their programmes' budget to evaluate provincial priority programmes to determine if their implementation is yielding the intended results. As required by the NEPF, ECSECC will comply with the stipulated requirements by developing and implementing an evaluations plan linked to the MTEF Cycle.

## 8. MANDATE, OBJECTIVES AND FUNCTIONS OF ECSECC

### 8.1 Constitutional mandate

The Eastern Cape Socio-Economic Consultative Council (ECSECC), as the public entity of the Office of the Premier, supports the OTP in executing its mandate which is derived from sections 125, 127 and 130 of the Constitution of the Republic of South Africa. In terms thereof, the Premier has the following duties, roles, and powers:

- a) Section 125: vests the executive authority of the province in the Premier, together with members of the Executive Council;
- b) Section 127: defines the powers and functions of the Premier; and
- c) Section 130: defines the term of office of the Premier.

Of particular importance is section 125 of the Constitution, in terms of which the Premier, as the executing authority of the province, exercises his/her authority by:

- a) Implementing and administering national and provincial legislation;
- b) Developing and implementing provincial policy;
- c) Coordinating the functions of the provincial administration and its departments;
- d) Preparing and initiating provincial legislation; and
- e) Performing all functions assigned to the provincial executive by the Constitution.

## 8.2 Mandate

ECSECC is a multi-stakeholder council mandated to foster partnerships to drive a shared development agenda amongst key stakeholders of the Eastern Cape Province and beyond.

## 8.3 Objectives

Based on the mandate, relevant legislation and the problem statement as set out above, ECSECC will have four core objectives, as outlined below.

***Objective 1: To advise, assist in and drive the development of a shared and sustainable socio-economic development agenda for the Province of the Eastern Cape, aligned to its long term development perspective.***

ECSECC will serve as the central capability for long term planning in the Eastern Cape Province and will work with all stakeholders to develop a shared provincial development agenda. ECSECC will seek to ensure that long term planning is societal and seeks to leverage resources outside of the state. ECSECC will provide strategic advice and related technical support to the Office of the Premier, Provincial Government and Local Government in support of the respective institutions constitutional and legislated functions.

The specific functions of ECSECC pertain to:

- Provide policy advice on development matters.
- Facilitate long term strategic and integrated planning for the province.
- Project packaging and management of catalytic projects.
- Facilitate monitoring, evaluation and reporting of the implementation of the provincial long-term plan

***Objective 2: To facilitate, monitor and support strategic partnerships that involve the public sector, the private sector, the knowledge sector, organised labour, and civil society in the implementation of the provincial development agenda.***

ECSECC will function as a shared platform for engagement amongst all development stakeholders in the Eastern Cape and seek to build public trust. The existence of ECSECC seeks to ensure that stakeholder mobilisation and engagement is an ongoing and two-way process and that there is innovation in approaches to social compacting. ECSECC will seek to mobilise resources beyond the confines of government for the implementation of the provincial development agenda.

The specific functions of ECSECC pertain to:

- Hold an annual development convention among all stakeholders in the Eastern Cape.
- Facilitate the establishment, host and provide technical support to Multi-Stakeholder Forums and Sector Councils
- Facilitate social compacts amongst stakeholders.
- Facilitate resource mobilisation from private and public partners.
- Provide technical support to stakeholders in the implementation of the provincial development agenda

***Objective 3: To serve as a provincial hub for socio-economic research, knowledge, as well as innovation for decision-making, policymaking and planning, towards the sustainable development of the Province.***

ECSECC will seek to ensure that appropriate data, analysis and knowledge is developed to inform policy, planning and decision making. This will be done through building institutional capacity, developing partnerships, leveraging resources and providing strategic and technical support to generators and users of knowledge.

The specific functions of ECESCC pertain to:

- Serve as a centre of knowledge and innovation through the collection, generation, and analysis of administrative, official, and other primary data.
- Coordinate and facilitate partnerships with non-government research partners within and beyond the province.

**Objective 4: To empower stakeholder constituencies for meaningful participation in the development, implementation, and monitoring of the provincial development agenda.**

ECSECC will seek to empower stakeholder constituencies to meaningfully participate in the development, implementation, and monitoring of the provincial development agenda.

The specific functions of ECESCC pertain to:

- Support stakeholder structures to effectively participate in the development of the provincial development agenda.
- Facilitate dialogue amongst stakeholders.
- Provide stakeholder leadership development support.

## 9. DEVELOPMENT PHILOSOPHY, VALUES and PRINCIPLES

The policy and the resultant legislation regarding the structure, mandate, powers and functions of ECSECC must be underpinned by the following development philosophy, values and principles:

### 9.1 Development Philosophy

Collectively building and sustaining a capable, ethical and developmental province.

### 9.2 Values

- World-Class Excellence
- Integrity
- Transparency
- Accountability
- Collaboration

### 9.3 Principles

The policy and the resultant legislation regarding the structure, mandate, powers and functions of ECSECC must be underpinned by the following principles:

- Integration and coordination
- Co-creation
- Optimising local development benefits
- People-centred development
- Professionalism
- Innovation
- Organisational learning



## 10. ANNUAL DEVELOPMENT CONVENTION

### 10.1 Authority of Convention

ECSECC will organise and hosts an Annual Development Convention where all stakeholders send representatives to determine, review and drive the provincial collective development agenda, a minimum of one time per year.

### 10.2 Participation in the Convention

The Convention will consist of members nominated from stakeholder constituencies, submitted to the Premier:

Stakeholder sectors	Organisations represented
Government Sector	Provincial Government: OTP, Legislature, MECs Parties in Legislature Local Government: SALGA House of Traditional Leaders
Higher Education and Training Sector	Eastern Cape Universities TVET Colleges and SETAs
Organised Community Sector	NGOs and CBOs (ECNGOC) Other community organisations Religious organisations Representatives from ECAC civil society Contralesa
Organised Private Sector	BKCOB, NAFCOC, NMBCIC Other business/industry organisations
Organised Labour	Registered Labour Federations

The  
Board  
of

ECSECC may reconsider the composition of the convention as circumstances change, whilst ensuring sufficient representation from the respective sectors.

The Premier of the Province is the chairperson of the Convention and the Convention must present a formal report to the Executive Council.

## 11. SECTOR COUNCILS

ECSECC must facilitate the establishment of multi-stakeholder Sector Councils and advisory forums to drive provincial priorities.

Sector Councils shall consist of members of ECSECCs constituencies, based on priorities and the nature of challenges to be addressed, but the emphasis should be on action-oriented multi-agency compacts.

The Premier, having been provided with nominees, shall formalise/ approve the appointment of the chairperson of each Sector Council.

Terms of Reference and Sector Council Charters must be developed for each Advisory Forum upon establishment, based upon a set of generic Terms of Reference:

- To advise the Provincial government on the assigned subject matter(s).
- To advocate for the effective involvement of sectors and organizations in implementing interventions;
- To provide a platform for strategic partnerships.
- To oversee the packaging of identified priority interventions.
- To facilitate resourcing of identified priority interventions.



- f) To mobilise and leverage technical and financial resources in support of the government as well as business to implement prioritised interventions.
- g) To identify bottlenecks (institutional, organizational, financial, etc.) to ensure effective implementation of priority interventions.
- h) To provide coordination and implementation mechanisms for relevant Sector Council resolutions.
- i) To provide platforms for dialogue.
- j) To oversee the development and implementation of suitable monitoring and evaluation tools to ensure the sustainability of implemented priority interventions.

The following Sector Councils which are already operating under ECSECC namely, the Eastern Cape AIDS Council and the Eastern Cape HRD Council, should continue to operate. Faith-Based Organisations are included under Civil Society so they are already covered in terms of the sector councils.

The Sector Councils will also report on their work to the relevant government Cluster and Cabinet Committee and seek the support of these structures for the execution of its programme.

## 12. BOARD OF DIRECTORS

ECSECC shall function as a public entity listed in Part C of Schedule 3 of the PFMA and shall be fully compliant with the PFMA and Treasury Regulations with regard to accountability, reporting, financial management and any other requirement of the PFMA or Treasury Regulations.

### 12.1 Appointment and Terms of Office

The Premier must appoint a Board of Directors to hold office for a term of 3 years from the date of their appointment; but may be eligible for reappointment, on expiry of their term of office, for one additional term of office only.

The Board of Directors shall be constituted as follows:

- a) Two (2) executive directors should be selected from the Executive Management (Ex-Officio), preferably the Chief Executive Officer and the Chief Financial Officer;
- b) Six (6) members (non-executive) representing the constituency sectors of ECSECC;
- c) Two (2) independent (non-executive) members;
- d) Public servant representatives (non-executive);
- e) The Executive Authority will appoint the Chairperson of the Board from the selected non-executive members.

A member of the Board who is not in the full-time employment of the State must be paid such remuneration and allowances as may be determined by the Premier in consultation with the member of the Executive Council responsible for Finance and in line with the guidelines issued by National Treasury as well as the Eastern Cape Framework for Determination of Remuneration for Accounting Authorities of Provincial Public Entities.

Executive directors and public servant representatives will not receive additional remuneration for participation in the Board. The 8 non-executive members stipulated in (b) and (c) will be remunerated based on an agreed upon rate by National Treasury.

Members are appointed based on a public nomination process and nomination from the stakeholder constituencies to ensure that the Board of Directors comprises the necessary stakeholder representation and professional expertise to remain a compliant entity.

Board members appointed according to sections (b) and (c) above must individually and collectively possess the knowledge and have experience and appropriate qualifications in the following areas:

- a) Law,
- b) Accounting,

- c) Development planning,
- d) Research and innovation,
- e) Socio-Economic Development.

The Premier delegates a member of the Board of Directors to be the Chairperson of the ECSECC Board.

## 12.2 Disqualification from Membership of the Board

A person is disqualified from being appointed or remaining a member of the Board if that person –

- a) Is elected Public Office Bearer or becomes a member of the National Assembly or National Council of Provinces, a Provincial Legislature, Municipal Council, is in the full-time employ of an organ of state, with exception of the public servants contemplated in section 12.1 (d) is not a South African citizen, or is not a permanent resident who is ordinarily resident in the Republic.
- b) Is or becomes subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No. 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or authority of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;
- c) Is declared by the High Court to be of unsound mind or suffers a mental illness, or has a severe or profound intellectual disability as contemplated in the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- d) Has been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or producing a forged document, perjury, or any offence involving dishonesty or of any offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or the Companies Act, 2008 (Act No. 71 of 2008), or of contravening this Act, irrespective of whether such imprisonment was wholly or partly suspended or not;
- e) Has been convicted of an offence, other than an offence contemplated in paragraph (d) and sentenced to imprisonment without the option of a fine for not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not;
- f) Without authorisation discloses or improperly acts on information gained as a result of his or her membership of the Board; or
- g) Is an un-rehabilitated insolvent.

## 12.3 Powers and Duties of the Board

The affairs of ECSECC must be governed by the Board which shall be the Accounting Authority of ECSECC.

The Board must –

- a) Give strategic direction to ECSECC;
- b) Be responsible for the performance of the ECSECC;
- c) Be accountable to the Premier for the performance of ECSECC;
- d) Be accountable to the relevant oversight bodies of the Legislature through the controlling department;
- e) Be supported by a chief executive officer and other employees;
- f) Provide effective, transparent and accountable corporate governance and conduct effective oversight over the affairs of ECSECC, by adopting governance rules;
- g) Comply with all applicable legislation and agreements; and

- h) At all times act in accordance with the code of conduct for members of the Board as may be prescribed by the Premier.

In addition to the above, board members that represent sector constituencies shall be required to –

- a) Represent the stakeholder constituency that nominated her or him;
- b) Report back to the stakeholder constituency on decisions taken by the Convention; and
- c) Report to the stakeholder constituencies on the implementation of the Convention's decisions by the stakeholder.

## 12.4 Meetings of Board

The Board must determine the time and place of meetings for the first and subsequent terms of office of the Board as often as circumstances require, but must meet at least four times in every financial year.

A simple majority of Board members (50%+1) constitutes a quorum at a meeting and each member, including the chairperson, has one vote. In the event of an equality of votes, the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.

The Board must adopt governance rules which provide for the conduct of proceedings at meetings, the recording of the proceedings and governance rules for special meetings.

## 12.5 Committees of the Board

The Board may establish any committee and appoint members to that committee and may, at any time, dissolve or reconstitute any such committee. The Board must determine the number of members and the terms of reference of each committee and must designate the chairperson of a committee. The Board may summarily terminate the membership of a member of a committee if –

- a) The performance by the member of the powers and functions of that committee is unsatisfactory;
- b) The member, either through illness or for any other reason, is unable to perform the functions of the committee effectively;
- c) The member has failed to comply with or breached any legislation regulating the conduct of members; or
- d) The member is no longer an employee of ECSECC or a member of the Board.

## 12.6 Removal from Office and Dissolution of the Board

The Premier may, after due inquiry, or on the recommendation of the Board after due enquiry, remove, with immediate effect, a member of the Board from office on account of any or all of the following:

- a) Misconduct;
- b) Inability to perform the duties of his or her office efficiently;
- c) Absence from three consecutive meetings of the Board without the leave of absence of the Board, except on good cause shown; and
- d) Failure to disclose a direct financial interest or personal interest in a matter before the Board or voting or attendance at, or participation in proceedings of the Board while having such an interest.

The Premier may, after due inquiry, dissolve the Board with immediate effect, if it fails in any or all of the following:

- a) Achieving its objectives in terms of the founding legislation; and
- b) Carrying out its duties.

Upon the dissolution of the Board, the Premier must appoint an interim board for the period until a new board has been appointed. The Premier will exercise his or her discretion in appointing the interim Board and the term of office of the interim Board must not exceed six months.

## 12.7 Conditions of Office for Members of the Board

A member of the Board shall hold office as a member of the Board upon such conditions as to remuneration as the Premier may determine, after consultation with the Member of the Executive Council responsible for finance and the Framework for Determination of Remuneration for Accounting Authorities of Provincial Public Entities.



### 13. CHIEF EXECUTIVE OFFICER

The Board with the concurrence of the EA must appoint a CEO for a period of 5 years, which may be renewable taking into consideration the performance of the CEO. The Board must determine the conditions of appointment of the Chief Executive Officer.

The CEO must enter into a performance agreement with the Board on acceptance of his or her appointment and he or she is accountable to the Board.

The CEO is an ex officio member of the Board without voting powers. The CEO is the head of ECSECC's administration and, subject to the direction of the Board, is responsible for the—

- a) Financial and administrative management of ECSECC;
- b) Implement the policies and decisions of the Board;
- c) Compilation of a business and financial plan and reports in terms of the PFMA;
- d) Management of the affairs of ECSECC;
- e) Management and recruitment of employees to perform the work necessary to achieve the objects of ECSECC; and
- f) Implementation of the policies and decisions of the Board.

### 14. STAFF OF ECSECC

ECSECC must employ employees as determined in the staff establishment to do the professional, administrative, secretarial and other work incidental to the performance of its functions.

The Board must determine the following:

- a) The staff establishment for ECSECC;
- b) A human resources policy for ECSECC should be in line with good practice HR policies for public entities and
- c) The remuneration and conditions of service of the employees of ECSECC.

The Board must, in consultation with the CEO, determine a code of conduct applicable to all employees of ECSECC and justiciable for purposes of disciplinary proceedings, to ensure –

- a) Compliance with applicable law;
- b) The effective, efficient and economical use of ECSECC's funds and resources;
- c) The promotion and maintenance of a high standard of ethics; and
- d) Professional, honest, impartial, fair, ethical and equitable service.

### 15. POWERS OF THE EXECUTIVE AUTHORITY

The Premier is the Executing Authority for the entity as contemplated in the PFMA and he or she –

- a) Must appoint the members of the Board and determine their remuneration in consultation with the MEC responsible for Finance;
- b) Must establish and maintain clear channels of communication between him or her and ECSECC;
- c) Must cause monitoring and annual review of the performance of ECSECC;
- d) May issue directives to ECSECC to ensure that it operates effectively and economically in achieving the strategic objectives of provincial government and
- e) May direct ECSECC to perform any function if in his or her opinion will improve the economic growth and sustainable development of the Province.

## 16. ACCOUNTABILITY

### 16.1 Advice and Reports by ECSECC

All advice and reports by ECSECC, the Convention, or a Sector Council on any matter, whether requested by an institution, or provided on own initiative by a structure of ECSECC must be in writing, approved by the Board, and submitted to the Premier.

The Premier must submit such advice or report, with his or her comments and recommendation to EXCO for consideration.

### 16.2 Lines of accountability and reporting

- a) ECSECC will report to the Legislature at least every six months.
- b) ECSECC will report on their work to the relevant government Cluster and Cabinet Committee, through the Office of the Premier and seek the support of these structures for the execution of its programme.
- c) Administrative reporting to the Controlling Department will be conducted in accordance with the PFMA.

## 17. FUNDING OF ECSECC

As a schedule 3C entity, ECSECC is not a commercial or business entity and its functions are substantially funded from the Provincial Revenue Fund, through the OTP.

As per section 18.1 of the PFMA, on an annual basis, a provincial budget is prepared for tabling at Legislature and it includes a separate budget book for public entities which details the allocation of financial resources to all public entities, including ECSECC. The allocation of these financial resources is based on the MTEF period, aligned to provincial policy priorities and annual performance plans of public entities.

The determination of the allocation of financial resources to public entities is the responsibility of the Executive Authority (with the support of its Accounting Officer) and Accounting Authority with the concurrence of the MEC for Finance. Section 53.3 of the PFMA prohibits public entities from budgeting for a deficit and accumulating surpluses without the prior approval of the National Treasury.

In every financial year, there is a period for considering adjustments to the main/original budget tabled at the legislature in line with the provisions of section 31 of the PFMA. This is mainly to accommodate for any unforeseen and unavoidable commitments that were not part of the main budget allocation.

All finances of ECSECC including funds unspent at financial year-end will be guided by Treasury Regulations and PFMA.

Should a need arise for the public entity to require funding for new projects which are not part of the baseline allocations, public entities are given an opportunity to request additional funding through the MTEC hearings and Budget Adjustment processes. This then means that, the funding would be provided either during the adjustment period and/ or the main budget of the following financial year, depending on the merits of the request submitted through the controlling department.

## 18. COMMENCEMENT CLAUSE

This Legislation shall commence upon approval.

## 19. APPROVAL

The Executive Council approved the White Paper for introduction to the Legislature for further processing.

**PROVINCIAL NOTICE 152 OF 2021**

Nelson Mandela bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013).

ERF 235 NEWTON PARK, PORT ELIZABETH, EASTERN CAPE.

Under section 47 of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) and upon instructions of the Local Authority a notice is hereby given that conditions C1, C3, C4, C6, C7, C8, C9 and C10 in Deed of Transfer No T54990/2006 and any subsequent Deed applicable to Erf 235 Newton Park are hereby removed.

**PROVINCIAL NOTICE 153 OF 2021**

Nelson Mandela bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013).

ERF 260 NEWTON PARK, PORT ELIZABETH, EASTERN CAPE.

Under section 47 of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) and upon instructions of the Local Authority a notice is hereby given that conditions C1, C3, C4, C6, C8, C9 in Deed of Transfer No T662/2007 and any subsequent Deed applicable to Erf 260 Newton Park are hereby removed.

**PROVINCIAL NOTICE 154 OF 2021**

Nelson Mandela Bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

ERF 2170, NEWTON PARK, PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, notice is hereby given that conditions 3.1, 3.2, 3.3, 3.5, 3.6, 3.7, 3.8, in Deed of Transfer No. T54643/2013 and any subsequent Deed applicable to Erf 2170, Newton Park are hereby removed:

**PROVINCIAL NOTICE 155 OF 2021**

Nelson Mandela bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013).

ERF 235 NEWTON PARK, PORT ELIZABETH, EASTERN CAPE.

Under section 47 of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) and upon instructions of the Local Authority a notice is hereby given that conditions C1, C3, C4, C6, C7, C8, C9 and C10 in Deed of Transfer No T54990/2006 and any subsequent Deed applicable to Erf 235 Newton Park are hereby removed.



**LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS****LOCAL AUTHORITY NOTICE 283 OF 2021****BUFFALO CITY METROPOLITAN MUNICIPALITY**

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, No. 16 of 2013

**ERF 1248 BEACON BAY**

Under Section 47 of the Spatial Planning and Land Use Management Act, No. 16 of 2013, and upon instructions by the Local Authority, notice is hereby given that Conditions C. (4) (a-d) and D. (1-3) in Deed of Transfer T1389/1990, applicable to Erf 1248 Beacon Bay, are hereby removed.

**LOCAL AUTHORITY NOTICE 284 OF 2021****BUFFALO CITY METROPOLITAN MUNICIPALITY****SPLUMA, ACT 16 of 2013 : ERF 6594 EAST LONDON : REMOVAL OF RESTRICTIONS**

Under Section 47 (1) of the Spatial Planning and Land Use Management Act, No. 16 of 2013, read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning & Land Use Management By-law of 2016, and upon instruction from the abovementioned municipality, notice is hereby given that, following application by the owner of Erf 6594 East London, conditions C.(1)(a)(b)(c)(d) C.(2)(e) & D.(1)(2)(3), found in Deed of Transfer No. T 1944/1986, pertaining to Erf 6594 East London, are approved for removal.

**LOCAL AUTHORITY NOTICE 285 OF 2021****BUFFALO CITY METROPOLITAN MUNICIPALITY****SPLUMA, ACT 16 of 2013 : ERF 10722 EAST LONDON : REMOVAL OF RESTRICTIONS**

Under Section 47 (1) of the Spatial Planning and Land Use Management Act, No. 16 of 2013, read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning & Land Use Management By-law of 2016, and upon instruction from the abovementioned municipality, notice is hereby given that, following application by the owner of Erf 10722 East London, conditions C(2)(a)(b)(c)(d) C(3)(e) & D(a)(i)(ii)(iii)(b)(c)(d)(e), found in Deed of Transfer No. T 288/1986, pertaining to Erf 10722 East London, are approved for removal.

**LOCAL AUTHORITY NOTICE 286 OF 2021  
BUFFALO CITY METROPOLITAN MUNICIPALITY**

**SPLUMA, ACT 16 of 2013 : ERF 10720 EAST LONDON : REMOVAL OF RESTRICTIONS**

Under Section 47 (1) of the Spatial Planning and Land Use Management Act, No. 16 of 2013, read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning & Land Use Management By-law of 2016, and upon instruction from the abovementioned municipality, notice is hereby given that, following application by the owner of Erf 10720 East London, conditions B.1.(a)(b)(c)(d) B.2.(e) & C.(a)(i)(ii)(iii)(b)(c)(d)(e), found in Deed of Transfer No. T 15961/2020, pertaining to Erf 10720 East London, are approved for removal.

**LOCAL AUTHORITY NOTICE 287 OF 2021  
BUFFALO CITY METROPOLITAN MUNICIPALITY**

**SPLUMA, ACT 16 of 2013 : ERF 11213 EAST LONDON : REMOVAL OF RESTRICTIONS**

Under Section 47 (1) of the Spatial Planning and Land Use Management Act, No. 16 of 2013, read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning & Land Use Management By-law of 2016, and upon instruction from the abovementioned municipality, notice is hereby given that, following application by the owner of Erf 11213 East London, conditions B.(a)(b)(c)(d)&(f), found in Deed of Transfer No. T 4919/2013, pertaining to Erf 11213 East London, are approved for removal.

**LOCAL AUTHORITY NOTICE 288 OF 2021****GAZETTE NOTIFICATION OF CLOSING OF PORTION OF PUBLIC PLACE 1111 ADJOINING  
ERF 1076 KENTON-ON-SEA****NDLAMBE MUNICIPALITY****CLOSING OF PORTION OF A LAND ADJOINING ERF 1076 KENTON-ON-SEA**

Notice is hereby given that in terms of Section 108 of the Ndlambe Municipality Spatial Planning and Land Use Management By-laws (2016) and in terms of the provisions of Section 137(1) of Municipal Ordinance No. 20 of 1974 that a portion of a portion of public place 1111 adjoining Erf 1076 Kenton-on-Sea in the area of Ndlambe Municipality, Division of Bathurst, Eastern Cape has been permanently closed. (S/10376/1)

**MUNICIPAL NOTICE NUMBER:**  
**36/2021**

**ADV ROLLY DUMEZWENI**  
**MUNICIPAL MANAGER**

**PLAASLIKE OWERHEID KENNISGEWING 288 VAN 2021****NDLMBE MUNISIPALITEIT****SLUITING VAN N GEDEELTE GROND AANGRENSEND ERF 1076 KENTON-ON-SEA**

Kennis geskied hiermee dat ingevolge Artikel 108 van die Ndlambe Munisipaliteit se Bywette vir Ruimtelike Beplanning en Grondgebruikbestuur (2016) en ingevolge die bepalings van Artikel 137(1) van die Munisipale Ordonnansie No. 20 van 1974 dat gedeelte van erf 1111 wat aangrensand erf 1076 Kenton-on-Sea in die gebied van die Ndlambe Munisipaliteit, Afdeling van Bathurst, Oos Kaap, permanent gesluit s. (S/10376/1).

**MUNISIPALE KENNIS NOMMER:**  
**36/2021**

**ADV. ROLLY DUMEZENI**  
**MUNISIPALE BESTUURDER**

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