



PROVINCE OF THE EASTERN CAPE  
IPHONDO LEMPUMA KOLONI  
PROVINSIE OOS-KAAP

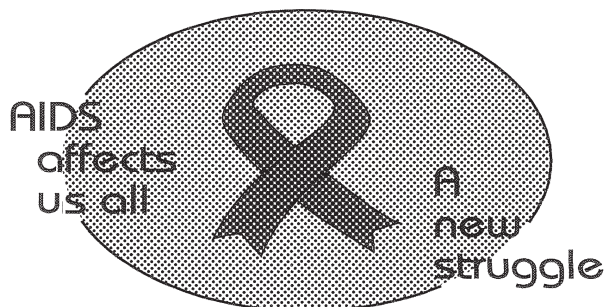
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27 JUNE 2016  
27 JUNIE 2016

**No. 3693**

**We all have the power to prevent AIDS**



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DEPARTMENT OF HEALTH

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# Government Printing Works

## Notice submission deadlines

Government Printing Works has over the last few months implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submit your notice request.

In line with these business rules, GPW has revised the notice submission deadlines for all gazettes. Please refer to the GPW website [www.gpwonline.co.za](http://www.gpwonline.co.za) to familiarise yourself with the new deadlines.

### CANCELLATIONS

Don't forget!

Cancellation of notice submissions are accepted by GPW according to the deadlines stated in the table above.

Non-compliance to these deadlines will result in your request being failed. **Please pay special attention to the different deadlines for each gazette.**

**Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.**

Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

### AMENDMENTS TO NOTICES

take note!

With effect **from 01 October**, GPW will not longer accept amendments to notices. The cancellation process will need to be followed and a new notice submitted thereafter for the next available publication date.

### CUSTOMER INQUIRIES



Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While GPW deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a **2-working day turnaround time for processing notices** received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

### PROOF OF PAYMENTS



GPW reminds you that all notice submissions **MUST** be submitted with an accompanying proof of payment (PoP) or purchase order (PO). If any PoP's or PO's are received without a notice submission, it will be failed and your notice will not be processed.

When submitting your notice request to [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za), please ensure that a purchase order (GPW Account customer) or proof of payment (non-GPW Account customer) is included with your notice submission. All documentation relating to the notice submission must be in a single email.

A reminder that documents must be attached separately in your email to GPW. (In other words, your email should have an Adobe Form plus proof of payment/purchase order – 2 separate attachments – where notice content is applicable, it should also be a 3rd separate attachment).

### REMINDER OF THE GPW BUSINESS RULES

- ☐ Single notice, single email – with proof of payment or purchase order.
- ☐ All documents must be attached separately in your email to GPW.
- ☐ 1 notice = 1 form, i.e. each notice must be on a separate form
- ☐ Please submit your notice **ONLY ONCE**.
- ☐ Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
- ☐ The notice information that you send us on the form is what we publish. Please do not put any instructions in the email body.

**IMPORTANT NOTICE:**

**THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD  
RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE  
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**No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.**

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## PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

## PROVINCIAL NOTICE 146 OF 2016

DEPARTMENT OF COOPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS

## PUBLICATION FOR PUBLIC COMMENT

**PROPOSED PUBLICATION OF THE AMENDMENT AND REPEAL OF  
PROVINCIAL NOTICE NO. 110 DATED 2 DECEMBER 2000, AS AMENDED,  
ISSUED IN TERMS OF SECTION 12 OF THE LOCAL GOVERNMENT:  
MUNICIPAL STRUCTURES ACT, 1998 (ACT NO. 117 OF 1998)**

**In terms of section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, the attached schedule is hereby published for public comment before its enactment.**

- 1. Comments must please be submitted in writing to:  
The Head of Department  
Attention: Mrs Sihunu  
Department of Cooperative Governance and Traditional Affairs  
Private Bag X0035  
Bhisho  
5605**
- 2. Comments must be faxed to facsimile number (040) 639 1768 at the above address**
- 3. Comments must be submitted within fourteen (14) days of the date of publication in the Provincial Gazette.**

**I, FIKILE XASA, Member of the Executive Council responsible for local government in the Province of the Eastern Cape, after the consultation process prescribed in Section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, hereby propose to amend and repeal the existing establishment notice in respect of Ikwezi, Camdeboo and Baviaans Local Municipalities and establish a new municipality: Dr Beyers Naude Local Municipality.**



FIKILE XASA

**MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR LOCAL  
GOVERNMENT – PROVINCE OF THE EASTERN CAPE**

**DATE:** 22/6/2016

## SCHEDULE

### PART 1

#### Definitions

1. In this schedule, unless the context otherwise indicates or unless redefined herein, a word or expression to which meaning has been assigned in the Local Government: Municipal Structures Act, 1998 as amended, or Chapter 2 of the Local Government: Municipal Structures Amendment Act, 2000 as amended has the same meaning and

—  
“**Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended;

“**affected municipalities**” means the merging municipality or a new municipality when it is established, as the case may be;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 as amended;

“**demarcation notice**” means Provincial Notice No. 90 of 2015 published in *Provincial Gazette* No 3481 dated 25 August 2015, as amended;

“**disestablished municipality**” means an existing municipality disestablished in terms of paragraph 2 of Part 1 of this schedule;

“**effective date**” means the day on which the results of the local government municipality elections are declared in terms of section 190(1)(c) of the Constitution;

“**elections**” means the municipal elections taking place on the date of municipal elections;

“**existing municipalities**” means the Ikwezi Local Municipality, Baviaans Local Municipality and Camdeboo Local Municipality;

“**MEC**” means the Member of the Executive Council responsible for local government affairs in the Province of the Eastern Cape;

“**merging municipalities**” means those municipalities which, following a re-determination of boundaries in terms of section 21 of the Local Government:



Municipal Demarcation Act, 1998 as amended (Act No. 27 of 1998), will be disestablished and their former areas of jurisdiction merged under new municipality to be established;

**“new municipality”** means the municipality that is established in terms of Part 2 of the Schedule;

**“proportionally elected councillors”** means councillors elected to proportionally represent the parties that contested the election in the municipality concerned;

**“ward councillor”** means a councillor elected to directly represent a ward.

## **2. Disestablishment of existing municipalities**

The existing municipalities are disestablished with effect from the effective date.

## **3. Establishment of the new municipality**

(1) The following new municipality is hereby established as set out in Part 2 of this Schedule: the Dr. Beyers Naude Local Municipality.

(2) The establishment of the new municipality mentioned in sub – paragraph (1) takes effect on the effective date.

## **4. Legal succession**

The new municipality supersedes the existing municipalities and becomes the successor in law of the existing municipalities.

## **5. Transfer of assets, rights, liabilities and obligations**

(1) The assets, rights, liabilities and obligations of disestablished municipalities, are hereby, subject to section 16(1)(h) read with section 14 of the Act transferred to the municipality.

(2) For the purpose of sub-paragraph (1), the performance of any function in question includes the exercising of a power.

(3) Administrative and other records relating to the assets, rights, liabilities and obligations referred to in sub-paragraph (1) vests, as from the effective date, in the new municipality.

## **6. Investments, cash and cash balances**

- (1) As from the effective date all investments and all cash and cash balances in a bank account of the disestablished municipalities accrue to the new municipality established in terms of paragraph 4(1) in accordance with the following rules:
  - (a) the investments, cash and cash balances of the disestablished municipalities referred to in paragraph 6, accrue to the new municipality.
  - (b) notwithstanding the afore going, all cash and cash balances constituting funded reserves underpinning obligations or liabilities of a disestablished municipality shall accrue to the new municipality if it assumes those liabilities, or in proportion to the extent to which such liabilities had been assumed.

## **7. Valuations and supplementary rolls, rates policies and By-laws and tariffs**

(1) Section 89A and 90 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), must apply to incorporating municipalities with the necessary changes.

(2) In respect of merging municipalities, a new municipality must —

- (a) continue to apply the property rates policy, property rates By-laws and property rates tariffs that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction;
- (b) continue to apply the valuation roll and supplementary valuation roll that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction, together with any subsequent supplementary valuation rolls; and
- (c) levy rates against property values as shown on the valuation roll or supplementary valuation rolls, until it prepares and adopts a new general valuation roll in terms of Section 30 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

(3) In applying valuation rolls and supplementary valuation rolls in terms of subsection (2), a new municipality may, notwithstanding Section 19 (1)(a) of the Local

Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), impose different rates based on the different valuation rolls or supplementary valuation rolls, to ensure that the rates payable on similarly situated and valued property is more or less the same.

## **8. Transfer of staff**

- (1) A person who on the effective date is an employee of a disestablished municipality becomes an employee of the new municipality in accordance with the following rules:
  - (a) the employment of employees by a new municipality is subject to any collective agreement and the Labour Relations Act, 1995 (Act No. 66 of 1995) as amended;
  - (b) an employee referred to is transferred to the new municipality on terms and conditions no less favourable than those under which such employee served immediately before the effective date;
  - (c) service by a person so transferred is deemed to be in the service as an employee of the new municipality to which the person is transferred and any leave, pension and other benefits that may have accrued to that person by virtue of service with the disestablished municipalities shall be deemed to have accrued in favour of such a person by virtue of service with the new municipality to which she or he is transferred;
  - (d) where an employee was a member of a medical aid scheme, pension or provident fund immediately before the effective date-
    - (i) that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the new municipality to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise,
    - (ii) the new municipality must deduct the necessary employee's contribution to the scheme or fund from the remuneration of the employee and pay over to the scheme or fund in question together with the employer's contribution.
  - (e) the new municipality must appoint a person who became an employee of the municipality in terms of sub-paragraph (i), to a post on the establishment of the new municipality, provided that such a person remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately prior to becoming such an employee, but subject further to any amendments concluded locally or in the applicable bargaining council.



- (f) nothing contained herein shall preclude a municipality from implementing a scheme to re-organize its staff subject to provisions of the Labour Relations Act.

## **9. Continued application of By-laws and resolutions**

- (1) All By-laws, regulations and resolutions applicable in the respective areas of the disestablished municipalities immediately prior to the effective date, continue to apply in such areas from the effective date, subject to any amendment or repeal by the Council of the new municipality.
- (2) Unless inconsistent with the context or clearly inappropriate, reference in any such By-law, regulation or resolution to-
- (a) a disestablished municipality, must be construed as a reference to the new municipality; and
  - (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary in the newly established municipality.

## **PART 2**

### **1. ESTABLISHMENT OF LOCAL MUNICIPALITY**

- (1) The new municipality is hereby established.
- (2) The part of the local municipal area indicated as EC 101 is reflected in Notice No. 153 Provincial Gazette No. 3526 (extraordinary) dated 21 October 2015.

### **2. CATEGORY**

The local municipality is a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Act.

### **3. TYPE**

The local municipality is of a type described in section 3(b) of the Determination of Types of Municipality Act, 2000 as amended (Act 5 of 2000(EC).

#### **4. BOUNDARIES**

The boundaries of the local municipality are as indicated in a Map as contained in DEM 4500 as published in Notice No. 153 of Provincial Gazette No. 3526 (extraordinary) dated 21 October 2015.

#### **5. NAME**

The name of the municipality is Dr. Beyers Naude Local Municipality.

#### **6. COUNCILLORS**

(1) The Council of the local municipality consists of 27 councillors as determined in Provincial Notice No. 151 published in Provincial Gazette No. 3523 (Extraordinary) dated 16 October 2015.

(2) Full time councillors, if any, are designated in accordance with policy framework contemplated in section 18(4) of the Act, subject to the following conditions:

- (a) That the municipality submits to the MEC a motivation for further fulltime councillors in the event that there be a need to exceed the already approved fulltime councillors, on the following –
  - (i) the functions and duties to be performed by full-time office bearers.
  - (ii) the municipality's financial capacity to pay the remuneration attached to the full-time office bearers.
- (b) That the final designation of full-time councillors be made by the MEC after receipt of the above-mentioned motivation by way of a notice in the Provincial Gazette.

#### **7. FULLTIME COUNCILLORS**

The council of the local municipality may subject to conditions contained in paragraph 6(2) in this Part, designate the following office bearers as fulltime:

- (a) Speaker
- (b) Mayor

#### **8. WARDS**

The local municipality has 14 wards as determined by the Demarcation Board.

## **9. SEAT OF FIRST MEETING**

The seat of the new municipality for the purpose of the first meeting of its council after effective date shall be at Graaf-Reinet which shall be deemed to be the seat of the local municipality until determined otherwise in terms of this Act.

## **10. INTERIM MUNICIPAL MANAGER**

Pending the appointment by the Municipal Council of an Acting Municipal Manager or Municipal Manager in terms of Section 82 of the Act, the following person is designated in terms of Section 29 (2) of the Act to call the first Council meeting of the new municipality and such person shall be deemed to be the Acting Municipal Manager from the effective date until the Council appoints an Acting Municipal Manager or Municipal Manager.

**Rev. M.N. Pietersen**

## **11. ELECTION OF SPEAKER**

- 1) At its first meeting after its election the Council must elect its Speaker from among its councillors.
- 2) The Municipal Manager presides over the election of the Speaker.
- 3) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Speaker.
- 4) The elected Speaker presides over the remainder of the first meeting of the Council and the councillors from different political parties may express a sense of honour conferred upon him or her.

## **12. ELECTION OF MAYOR**

- 1) At its first meeting after its election, the Council must elect a Mayor.
- 2) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Mayor.

## **13. EXISTING DRAFT STANDING RULES FOR FIRST MEETING**

The existing Draft Standing Rules of Order as provided by SALGA will guide the sitting of the first meeting of the new local municipality.

## PROVINCIAL NOTICE 147 OF 2016

DEPARTMENT OF COOPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS

## PUBLICATION FOR PUBLIC COMMENT

**PROPOSED PUBLICATION OF THE AMENDMENT OF PROVINCIAL NOTICE NO. 20 DATED 16 MAY 2011, AS AMENDED, ISSUED IN TERMS OF SECTION 12 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 (ACT NO. 117 OF 1998)**

In terms of section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, the attached schedule is hereby published for public comment before its enactment.

1. Comments must please be submitted in writing to:  
The Head of Department  
Attention: Mrs Sihunu  
Department of Cooperative Governance and Traditional Affairs  
Private Bag X0035  
Bhisho  
5605
2. Comments must be faxed to facsimile number (040) 639 1768 at the above address
3. Comments must be submitted within fourteen (14) days of the date of publication in the Provincial Gazette.

I, **FIKILE XASA**, Member of the Executive Council responsible for local government in the Province of the Eastern Cape, after the consultation process prescribed in Section 12 (4)(c) and 16(3)(c) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), as amended, hereby propose to amend and repeal Notice No. 20 published in the Government Gazette No. 2565 (Extra-ordinary) dated 16 May 2011 to give effect to changes in the boundaries of the Amathole District Municipality, as determined in Notice No. 90 published in Provincial Gazette No. 3481 (Extraordinary) dated 25 August 2015.

  
**FIKILE XASA:**

**MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR LOCAL  
GOVERNMENT – PROVINCE OF THE EASTERN CAPE**

DATE: 22/6/2016

## SCHEDULE

### PART 1

#### 1. Definitions

In this schedule, unless the context otherwise indicates or unless redefined herein, a word or expression to which meaning has been assigned in the Local Government: Municipal Structures Act, 1998 as amended, or Chapter 2 of the Local Government: Municipal Structures Amendment Act, 2000 has the same meaning and –

“Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended;

“affected area” means the area of the Amathole District Municipality, which falls outside its new boundaries as a consequence of the amendment to its boundaries in terms of this Notice.

“effective date” means the day on which the results of the local government municipality elections are declared in terms of section 190(1)(c) of the Constitution;

“superseding municipality” means the municipality superseding the Amathole District Municipality in respect of the affected area.

#### 2. AMENDMENTS

The Section 12 Notice establishing the Amathole District Municipality as reflected in Provincial Notice No. 20 published in Provincial Gazette No. 2565 (Extraordinary) dated 16 May 2011, is amended under Part 3 of the Schedule, as follows:

##### 2.1 [4. BOUNDARIES

**The boundaries of the district municipality are as indicated on Map No. DEM 388B as published in the Provincial Gazette of 30 May 2008 under Notice No. 166 and/or any subsequent amendments by the Demarcation Board].**

Is repealed and replaced with:

“The boundaries of the district municipality are indicated in Maps contained in DEM 4006; DEM 4193; DEM 4085; DEM 4162; DEM 4167; DEM 4178 and DEM 492 as determined in terms of Section 21 of the Municipal Demarcation Act 1998 (Act 27 of 1998) by the Municipal Demarcation Board in General Notice No 220 published in the Eastern Cape Provincial Gazette (Extraordinary) No. 3056 dated 17 October 2013.”



## 2.2 [6. COUNCILLORS

**The council of the district municipality consists of 50 councillors as determined in Provincial Notice No. 49 published in Provincial Gazette No. 2182 (Extraordinary) dated 24 August 2009].**

Is repealed and replaced with:

**“The council of the district municipality consists of 47 councillors as determined in Provincial Notice No. 49 published in Provincial Gazette No. 3284 (Extraordinary) dated 6 October 2014, effective from date of the election of the municipal council”.**

## PART 2

In order to give effect to the changes under PART 1 of this Notice the following arrangements will apply from the effective date:

### 1. Partial disestablishment of the district municipality

The Amathole District Municipality is partially disestablished in the affected area.

### 2. Legal succession

In respect of the affected area only, the superseding municipality supersedes the Amathole District Municipality and become the successor in law of the Amathole District Municipality

### 3. Transfer of assets, right, liabilities and obligations

- (1) The assets, rights, liabilities and obligations pertaining to municipal functions performed by the Amathole District Municipality in the affected area immediately prior to the effective date, are hereby, subject to section 16(1)(h) read with section 14 of the Act, transferred to the superseding municipality which, from the effective date, has sole responsibility for the performance of municipal functions in the affected area.
- (2) For the purpose of sub-paragraph (1), the performance of any function in question includes the exercising of a power.
- (3) Administrative and other records relating to the assets, rights, liabilities and obligations referred to in sub-paragraph (1) vests, as from the effective date, in the superseding municipality.

#### 4. Transfer of staff

The following conditions shall apply in respect of any staff member transferred from Amathole District Municipality to the superseding municipality as a consequence of the boundary changes in Part 1 of this Notice:

- (1) From the effective date, an employee of the Amathole District Municipality transferred to the superseding municipality becomes an employee of the superseding municipality on the effective date.
- (2) An employee referred under sub-paragraph (1), is transferred on terms and conditions no less favourable than those under which such employee served immediately prior to the effective date;
- (3) A person so transferred as envisaged under sub-paragraph (1) is deemed to be in uninterrupted service of the superseding municipality from the date on which he or she commenced employment with the Amathole District Municipality. Accordingly any leave, pension and other benefits that may have accrued to that person by virtue of service with the Amathole District Municipality shall be deemed to have accrued in favour of such a person by virtue of his or her service with the superseding municipality.
- (4) Where an employee referred to under sub-paragraph (1) was a member of a medical aid scheme, pension or provident fund immediately before the effective date-
  - (a). that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the superseding municipality to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise;
  - (b) the superseding municipality must deduct the necessary employee's contribution to the scheme or fund from the remuneration of the employee and pay over to the scheme or fund in question together with the employer's contribution;
  - (c) The superseding municipality must appoint a person who became an employee of the municipality in terms of sub-paragraph (1), to a post on the establishment of the superseding municipality, provided that such a person remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately prior to becoming such an employee, but subject further to any amendments concluded locally or in the applicable bargaining council; and

- (d) nothing contained herein shall preclude the superseding municipality from implementing a scheme to re-organize its staff subject to provisions of the Labour Relations Act.

## PROVINCIAL NOTICE 148 OF 2016

DEPARTMENT OF COOPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS

## PUBLICATION FOR PUBLIC COMMENT

**PROPOSED PUBLICATION OF THE AMENDMENT AND REPEAL OF  
PROVINCIAL NOTICE NO. 108 DATED 2 DECEMBER 2000, AS AMENDED,  
ISSUED IN TERMS OF SECTION 12 OF THE LOCAL GOVERNMENT:  
MUNICIPAL STRUCTURES ACT, 1998 (ACT NO. 117 OF 1998)**

In terms of section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, the attached schedule is hereby published for public comment before its enactment.

1. Comments must please be submitted in writing to:  
The Head of Department  
Attention: Mrs Sihunu  
Department of Cooperative Governance and Traditional Affairs  
Private Bag X0035  
Bhisho  
5605
2. Comments must be faxed to facsimile number (040) 639 1768 at the above address
3. Comments must be submitted within fourteen (14) days of the date of publication in the Provincial Gazette.

I, **FIKILE XASA**, Member of the Executive Council responsible for local government in the Province of the Eastern Cape, after the consultation process prescribed in Section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, hereby propose to amend and repeal the existing establishment notice in respect of Gariiep and Maletswai Local Municipalities and establish a new municipality: Walter Sisulu Local Municipality.

  
FIKILE XASA

**MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR LOCAL  
GOVERNMENT – PROVINCE OF THE EASTERN CAPE**

DATE: 22/6/2016

## SCHEDULE

### PART 1

#### Definitions

1. In this schedule, unless the context otherwise indicates or unless redefined herein, a word or expression to which meaning has been assigned in the Local Government: Municipal Structures Act, 1998 as amended, or Chapter 2 of the Local Government: Municipal Structures Amendment Act, 2000 as amended has the same meaning and

**“Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended;

**“affected municipalities”** means the merging municipality or a new municipality when it is established, as the case may be;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996 as amended;

**“demarcation notice”** means Provincial Notice No. 90 of 2015 published in *Provincial Gazette* No 3481 dated 25 August 2015, as amended;

**“disestablished municipality”** means an existing municipality disestablished in terms of paragraph 2 of Part 1 of this schedule;

**“effective date”** means the day on which the results of the local government municipality elections are declared in terms of section 190(1)(c) of the Constitution;

**“elections”** means the municipal elections taking place on the date of municipal elections;

**“existing municipalities”** means the Gariep Local Municipality and the Maletswai Local Municipality;

**“MEC”** means the Member of the Executive Council responsible for local government affairs in the Province of the Eastern Cape;

**“merging municipalities”** means those municipalities which, following a re-determination of boundaries in terms of section 21 of the Local Government:



Municipal Demarcation Act, 1998 as amended (Act No. 27 of 1998), will be disestablished and their former areas of jurisdiction merged under new municipality to be established;

**“new municipality”** means the municipality that is established in terms of Part 2 of the Schedule;

**“proportionally elected councillors”** means councillors elected to proportionally represent the parties that contested the election in the municipality concerned;

**“ward councillor”** means a councillor elected to directly represent a ward.

## **2. Disestablishment of existing municipalities**

The existing municipalities are disestablished with effect from the effective date.

## **3. Establishment of the new municipality**

- (1) The following new municipality is hereby established as set out in Part 2 of this Schedule: the Walter Sisulu Local Municipality.
- (2) The establishment of the new municipality mentioned in sub – paragraph (1) takes effect on the effective date.

## **4. Legal succession**

The new municipality supersedes the existing municipalities and becomes the successor in law of the existing municipalities.

## **5. Transfer of assets, rights, liabilities and obligations**

(1) The assets, rights, liabilities and obligations of disestablished municipalities, are hereby, subject to section 16(1)(h) read with section 14 of the Act transferred to the municipality.

(2) For the purpose of sub-paragraph (1), the performance of any function in question includes the exercising of a power.

- (3) Administrative and other records relating to the assets, rights, liabilities and obligations referred to in sub-paragraph (1) vests, as from the effective date, in the new municipality.

## **6. Investments, cash and cash balances**

- (1) As from the effective date all investments and all cash and cash balances in a bank account of the disestablished municipalities accrue to the new municipality established in terms of paragraph 4(1) in accordance with the following rules:
- (a) the investments, cash and cash balances of the disestablished municipalities referred to in paragraph 6, accrue to the new municipality.
  - (b) notwithstanding the afore going, all cash and cash balances constituting funded reserves underpinning obligations or liabilities of a disestablished municipality shall accrue to the new municipality if it assumes those liabilities, or in proportion to the extent to which such liabilities had been assumed.

## **7. Valuations and supplementary rolls, rates policies and By-laws and tariffs**

7. (1) Section 89A and 90 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), must apply to incorporating municipalities with the necessary changes.

(2) In respect of merging municipalities, a new municipality must —

- (a) continue to apply the property rates policy, property rates By-laws and property rates tariffs that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction;
- (b) continue to apply the valuation roll and supplementary valuation roll that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction, together with any subsequent supplementary valuation rolls; and
- (c) levy rates against property values as shown on the valuation roll or supplementary valuation rolls, until it prepares and adopts a new general valuation roll in terms of Section 30 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

(3) In applying valuation rolls and supplementary valuation rolls in terms of subsection (2), a new municipality may, notwithstanding Section 19 (1)(a) of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), impose

different rates based on the different valuation rolls or supplementary valuation rolls, to ensure that the rates payable on similarly situated and valued property is more or less the same.

## **8. Transfer of staff**

- (1) A person who on the effective date is an employee of a disestablished municipality becomes an employee of the new municipality in accordance with the following rules:
  - (a) the employment of employees by a new municipality is subject to any collective agreement and the Labour Relations Act, 1995 (Act No. 66 of 1995) as amended;
  - (b) an employee referred to is transferred to the new municipality on terms and conditions no less favourable than those under which such employee served immediately before the effective date;
  - (c) service by a person so transferred is deemed to be in the service as an employee of the new municipality to which the person is transferred and any leave, pension and other benefits that may have accrued to that person by virtue of service with the disestablished municipalities shall be deemed to have accrued in favour of such a person by virtue of service with the new municipality to which she or he is transferred;
  - (d) where an employee was a member of a medical aid scheme, pension or provident fund immediately before the effective date-
    - (i) that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the new municipality to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise,
    - (ii) the new municipality must deduct the necessary employee's contribution to the scheme or fund from the remuneration of the employee and pay over to the scheme or fund in question together with the employer's contribution.
  - (e) the new municipality must appoint a person who became an employee of the municipality concerned in terms of sub-paragraph (i), to a post on the establishment of new municipality, provided that such a person remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately prior to becoming such an employee, but subject further to any amendments concluded locally or in the applicable bargaining council.

- (f) nothing contained herein shall preclude a municipality from implementing a scheme to re-organize its staff subject to provisions of the Labour Relations Act.

## **9. Continued application of By-laws and resolutions**

- (1) All By-laws, regulations and resolutions that apply in the area of the disestablished municipalities immediately prior to the effective date, continue to apply in such areas from the effective date, subject to any amendment or repeal by the Council of the new municipality.
- (2) Unless inconsistent with the context or clearly inappropriate, reference in any such By-law, regulation or resolution to-
- (a) a disestablished municipality, must be construed as a reference to the new municipality; and
  - (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary in the newly established municipality.

## **PART 2**

### **1. ESTABLISHMENT OF LOCAL MUNICIPALITY**

- (1) The new municipality is hereby established.
- (2) The part of the local municipal area indicated as EC 145 is reflected in Notice No. 90 Provincial Gazette No. 3481 (extraordinary) dated 25 August 2015.

### **2. CATEGORY**

The local municipality is a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Act.

### **3. TYPE**

The local municipality is of a type described in section 3(b) of the Determination of Types of Municipality Act, 2000 as amended (Act 5 of 2000(EC)).

#### **4. BOUNDARIES**

The boundaries of the new local municipality are as indicated in a Map as contained in DEM 4502 as published in Notice No. 90 of Provincial Gazette No. 3481 (extraordinary) dated 25 August 2015.

#### **5. NAME**

The name of the new municipality is Walter Sisulu Local Municipality.

#### **6. COUNCILLORS**

(1) The Council of the new local municipality consists of 22 councillors as determined in Provincial Notice No. 131 published in Provincial Gazette No. 3502 (Extraordinary) dated 21 September 2015.

(2) Full time councillors, if any, are designated in accordance with policy framework contemplated in Section 18(4) of the Act, subject to the following conditions:

- (a) The municipality may submit to the MEC a motivation for further fulltime councillors, other than those specified under paragraph 7 below, in the event that there be a need to exceed the already approved fulltime councillors, on the following –
  - (i) the functions and duties to be performed by full-time office bearers.
  - (ii) the municipality's financial capacity to pay the remuneration attached to the full-time office bearers.
- (b) The final designation of full-time councillors be made by the MEC after receipt of the above-mentioned motivation by way of a notice in the Provincial Gazette.

#### **7. FULLTIME COUNCILLORS**

The council of the new local municipality may subject to conditions contained in paragraph 6(2) in this Part, designate the following office bearers as fulltime:

- (a) Speaker
- (b) Mayor



## **8. WARDS**

The new local municipality has 11 wards as determined by the Demarcation Board.

## **9. SEAT OF FIRST MEETING**

The seat of the new municipality for the purpose of the first meeting of its council after the effective date shall be at Burgersdorp which shall be deemed to be the seat of the local municipality until determined otherwise in terms of this Act.

## **10. INTERIM MUNICIPAL MANAGER**

Pending the appointment by the Municipal Council of an Acting Municipal Manager or Municipal Manager in terms of Section 82 of the Act, the following person is designated in terms of Section 29 (2) of the Act to call the first Council meeting of the new municipality and such person shall be deemed to be the Acting Municipal Manager from the effective date until the Council appoints an Acting Municipal Manager or Municipal Manager.

**Mr. T. MAWONGA**

## **11. ELECTION OF SPEAKER**

- 1) At its first meeting after its election the Council must elect its Speaker from among its councillors.
- 2) The Municipal Manager will preside over the election of the Speaker.
- 3) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Speaker.
- 4) The elected Speaker presides over the remainder of the first meeting of the Council and the councillors from different political parties may express a sense of honour conferred upon him or her.

## **12. ELECTION OF MAYOR**

- 1) At its first meeting after its election, the Council must elect a Mayor.
- 2) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Mayor.

## **13. STANDING RULES FOR FIRST MEETING**

The Draft Standing Rules and Order as provided by SALGA will guide the sitting of the first meeting of the new local municipality.

## PROVINCIAL NOTICE 149 OF 2016

**DEPARTMENT OF COOPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION FOR PUBLIC COMMENT**

**PROPOSED PUBLICATION OF THE AMENDMENT AND REPEAL OF  
PROVINCIAL NOTICE NO. 106 DATED 2 DECEMBER 2000, AS AMENDED,  
ISSUED IN TERMS OF SECTION 12 OF THE LOCAL GOVERNMENT:  
MUNICIPAL STRUCTURES ACT, 1998 (ACT NO. 117 OF 1998)**

In terms of section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, the attached schedule is hereby published for public comment before its enactment.

1. Comments must please be submitted in writing to:  
The Head of Department  
Attention: Mrs Sihunu  
Department of Cooperative Governance and Traditional Affairs  
Private Bag X0035  
Bhisho  
5605
2. Comments must be faxed to facsimile number (040) 639 1768 at the above address
3. Comments must be submitted within fourteen (14) days of the date of publication in the Provincial Gazette.

I, **FIKILE XASA**, Member of the Executive Council responsible for local government in the Province of the Eastern Cape, after the consultation process prescribed in Section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, hereby propose to amend and repeal the existing establishment notice in respect of Nxuba and Nkonkobe Local Municipalities and establish a new municipality: Raymond Mhlaba Local Municipality.

  
**FIKILE XASA**

**MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR LOCAL  
GOVERNMENT – PROVINCE OF THE EASTERN CAPE**

DATE: 22/6/2016

## SCHEDULE PART 1

### 1. Definitions

1. In this schedule, unless the context otherwise indicates or unless redefined herein, a word or expression to which meaning has been assigned in the Local Government: Municipal Structures Act, 1998 as amended, or Chapter 2 of the Local Government: Municipal Structures Amendment Act, 2000 as amended has the same meaning and –

**“Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended;

**“affected municipalities”** means the merging municipality or a new municipality when it is established, as the case may be;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996 as amended;

**“demarcation notice”** means Provincial Notice 90 of 2015 published in *Provincial Gazette* No 3481 dated 25 August 2015;

**“disestablished municipality”** means an existing municipality disestablished in terms of paragraph 2 of Part 1 of this schedule;

**“effective date”** means the day on which the results of the local government elections are declared in terms of section 190(1)(c) of the Constitution ;

**“elections”** means the municipal elections taking place on the date of municipal elections;

**“existing municipalities”** means the Nxuba Local Municipality and the Nkonkobe Local Municipality;

**“MEC”** means the Member of the Executive Council responsible for local government affairs in the Province of the Eastern Cape;

**“merging municipalities”** means those municipalities which, following a re-determination of boundaries in terms of section 21 of the Local Government: Municipal Demarcation Act, 1998 as amended (Act No. 27 of 1998), will be

disestablished and their former areas of jurisdiction merged under new municipality to be established;

**“new municipality”** means the municipality established in terms of Part 2 of the Schedule;

**“proportionally elected councillors”** means councillors elected to proportionally represent the parties that contested the elections in the municipality concerned;

**“ward councillor”** means a councillor elected to directly represent a ward.

**“traditional leader”** means a traditional leader as defined in the Traditional Leadership and Governance Framework Act, 41 of 2003;

## **2. Disestablishment of existing municipalities**

The existing municipalities are disestablished with effect from the effective date.

## **3. Establishment of the municipality**

(1) The following new municipality is hereby established as set out in Parts 2 of this Schedule: the Raymond Mhlaba Local Municipality.

(2) The establishment of the municipality mentioned in sub-paragraph (1) takes effect on the effective date.

## **4. Legal succession**

The new municipality supersedes the existing municipalities and becomes the successor in law of the existing municipalities.

## **5. Transfer of assets, rights, liabilities and obligations**

(1) The assets, rights, liabilities and obligations of disestablished municipalities, are hereby, subject to section 16(1)(h) read with section 14 of the Act, transferred to the new municipality.

(2) For the purpose of sub-paragraph (1), the performance of any function in question includes the exercising of a power.

(3) Administrative and other records relating to the assets, rights, liabilities and obligations referred to in sub-paragraph (1) vests, as from the effective date, in the new municipality.

## **6. Investments, cash and cash balances**

As from the effective date all investments and all cash and cash balances in a bank account of the disestablished municipalities accrue to the municipality established in terms of paragraph 4(1) in accordance with the following rules:

- a) the investments, cash and cash balances of the disestablished municipalities referred to in paragraph 6, accrue to the new municipality.
- b) notwithstanding the afore going, all cash and cash balances constituting funded reserves underpinning obligations or liabilities of a disestablished municipality shall accrue to the new municipality if it assumes those liabilities, or in proportion to the extent to which such liabilities had been assumed.

## **7. Valuations and supplementary rolls, rates policies and By-laws and tariffs**

(1) Section 89A and 90 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), must apply to incorporating municipalities with the necessary changes.

(2) In respect of merging municipalities, a new municipality must –

- (a) continue to apply the property rates policy, property rates By-laws and property rates tariffs that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction;
- (b) continue to apply the valuation roll and supplementary valuation roll that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction, together with any subsequent supplementary valuation rolls; and
- (c) levy rates against property values as shown on the valuation roll or supplementary valuation rolls, until it prepares and adopts a new general valuation roll in terms of Section 30 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).



(3) In applying valuation rolls and supplementary valuation rolls in terms of subsection (2), a new municipality may, notwithstanding Section 19 (1)(a) of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), impose different rates based on the different valuation rolls or supplementary valuation rolls, to ensure that the rates payable on similarly situated and valued property is more or less the same.

## **8. Transfer of staff**

(1) A person who on the effective date is an employee of a disestablished municipality becomes an employee of the new municipality in accordance with the following rules:

- a) the employment of employees by the new municipality is subject to any collective agreement and the Labour Relations Act, 1995 (Act No. 66 of 1995) as amended;
- b) an employee referred to is transferred to the new municipality on terms and conditions no less favourable than those under which such employee served immediately before the effective date;
- c) service by a person so transferred is deemed to be in the service as an employee of the new municipality to which the person is transferred and any leave, pension and other benefits that may have accrued to that person by virtue of service with the disestablished municipalities shall be deemed to have accrued in favour of such a person by virtue of service with the new municipality to which she or he is transferred;
- d) where an employee was a member of a medical aid scheme, pension or provident fund immediately before the effective date-
  - i. that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the new municipality to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise,
  - ii. the new municipality must deduct the necessary employee's contribution to the scheme or fund from the remuneration of the

employee and pay over to the scheme or fund in question together with the employer's contribution.

- e) the new municipality must appoint a person who became an employee of the municipality in terms of sub-paragraph (1), to a post on the establishment of the municipality, provided that such a person remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately prior to becoming such an employee, but subject further to any amendments concluded locally or in the applicable bargaining council;
- f) nothing contained herein shall preclude the municipality from implementing a scheme to re-organize its staff subject to provisions of the Labour Relations Act.

## **9. Continued application of by-laws and resolutions**

(1) All By-laws, regulations and resolutions that applicable in the respective areas of the disestablished municipalities immediately prior to the effective date, continue to apply in such areas from the effective date subject to any amendment or repeal by council of the new municipality.

(2) Unless inconsistent with the context or clearly inappropriate, reference in any such By-law, regulation or resolution to-

- a) a disestablished municipality, must be construed as a reference to the new municipality; and
- b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary in the newly established municipality.

## **PART 2**

### **1. ESTABLISHMENT OF LOCAL MUNICIPALITY**

- (1) The new municipality is hereby established.
- (2) The part of the local municipal area indicated as EC 129 is reflected in Notice No. 90 Provincial Gazette No. 3481 (extraordinary) dated 25 August 2015.

## **2. CATEGORY**

The local municipality is a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Act.

## **3. TYPE**

The local municipality is of a type described in section 3(b) of the Determination of Types of Municipality Act, 2000 as amended (Act 5 of 2000(EC)).

## **4. BOUNDARIES**

The boundaries of the local municipality are as indicated in a Map as contained in DEM 4503 as published in Notice No. 90 of Provincial Gazette No. 3481 (extraordinary) dated 25 August 2015.

## **5. NAME**

The name of the new municipality is Raymond Mhlaba Local Municipality.

## **6. COUNCILLORS**

(1) The council of the local municipality consists of 46 councillors as determined in Provincial Notice No. 131 of 2015 published in Provincial Gazette No. 3502 (Extraordinary) dated 21 September 2015.

(2) Full time councillors, are designated in accordance with policy framework contemplated in section 18(4) of the Act, subject to the following conditions:

(a) The municipality may submit to the MEC a motivation for further fulltime councillors, other than those specified under paragraph 7 below, in the event that there be a need to exceed the already approved fulltime councillors, on the following –

(i) the functions and duties to be performed by full-time office bearers.

(ii) the municipality's financial capacity to pay the remuneration attached to the full-time office bearers.

(b) the final designation of full-time councillors will be made by the MEC after receipt of the above-mentioned motivation by way of a notice in the Provincial Gazette.

## **7. FULLTIME COUNCILLORS**

The council of the local municipality may subject to conditions contained in paragraph 6(2) in this Part, designate the following office bearers as fulltime:

(a) Speaker

(b) Mayor

## **8. WARDS**

The local municipality has 23 wards as determined by the Demarcation Board.

## **9. TRADITIONAL LEADERS**

The Council of the new local municipality will consist of traditional leaders in line with Section 81 of the Local Government: Municipal Structures Act, 1998 (117 of 1998) as amended.

## **10. SEAT OF FIRST MEETING**

The seat of the new municipality for the purpose of the first meeting of its council after effective date shall be at Alice which shall be deemed to be the seat of the local municipality until determined otherwise in terms of this Act.

## **11. INTERIM MUNICIPAL MANAGER**

Pending the appointment by the municipal council of an Acting Municipal Manager or Municipal Manager in terms of Section 82 of the Act, the following person is designated in terms of Section 29 (2) of the Act to call the first Council meeting of the new municipality and such person shall be deemed to be the Acting Municipal Manager from the effective date until the Council appoints an Acting Municipal Manager or Municipal Manager.

Mr. L. Menze

## **12. ELECTION OF SPEAKER**

- (1) At its first meeting after its election the council must elect its speaker from among its councillors.
- (2) The interim municipal manager presides over the election of the Speaker.
- (3) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Speaker.
- (4) The elected Speaker presides over the remainder of the first meeting of the council and the councillors from different political parties may express a sense of honour conferred upon him or her.

## **13. ELECTION OF MAYOR**

- (1) At its first meeting after its election, the council must elect a Mayor.
- (2) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Mayor.

## **14. EXISTING DRAFT STANDING RULES FOR FIRST MEETING**

The existing Draft Standing Rules of Order as provided by SALGA will guide the sitting of the first meeting of the new local municipality.



## PROVINCIAL NOTICE 150 OF 2016

DEPARTMENT OF COOPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS

## PUBLICATION FOR PUBLIC COMMENT

**PROPOSED PUBLICATION OF THE AMENDMENT AND REPEAL OF  
PROVINCIAL NOTICE NO. 105 DATED 2 DECEMBER 2000, AS AMENDED,  
ISSUED IN TERMS OF SECTION 12 OF THE LOCAL GOVERNMENT:  
MUNICIPAL STRUCTURES ACT, 1998 (ACT NO. 117 OF 1998)**

**In terms of section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, the attached schedule is hereby published for public comment before its enactment.**

- 1. Comments must please be submitted in writing to:  
The Head of Department  
Attention: Mrs Sihunu  
Department of Cooperative Governance and Traditional Affairs  
Private Bag X0035  
Bhisho  
5605**
- 2. Comments must be faxed to facsimile number (040) 639 1768 at the above address**
- 3. Comments must be submitted within fourteen (14) days of the date of publication in the Provincial Gazette.**

**I, FIKILE XASA, Member of the Executive Council responsible for local government in the Province of the Eastern Cape, after the consultation process prescribed in Section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, hereby propose to amend and repeal the existing establishment notice in respect of Inkwanca, Tsolwana and Lukhanji Local Municipalities and establish a new municipality: Enoch Mgijima Local Municipality.**

  
**FIKILE XASA**

**MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR LOCAL  
GOVERNMENT – PROVINCE OF THE EASTERN CAPE**

**DATE: 22/6/2016**



## SCHEDULE

### PART 1

#### Definitions

1. In this schedule, unless the context otherwise indicates or unless redefined herein, a word or expression to which meaning has been assigned in the Local Government: Municipal Structures Act, 1998 as amended, or Chapter 2 of the Local Government: Municipal Structures Amendment Act, 2000 as amended has the same meaning and –

**“Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended;

**“affected municipalities”** means the merging municipality or a new municipality when it is established, as the case may be;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996 as amended;

**“demarcation notice”** means Provincial Notice No. 90 of 2015 published in *Provincial Gazette* No 3481 dated 25 August 2015, as amended;

**“disestablished municipality”** means an existing municipality disestablished in terms of paragraph 2 of Part 1 of this schedule;

**“effective date”** means the day on which the results of the local government municipality elections are declared in terms of section 190(1)(c) of the Constitution;

**“elections”** means the municipal elections taking place on the date of municipal elections;

**“existing municipalities”** means the Inkwanca Local Municipality, Tsolwana Local Municipality and Lukhanji Local Municipality;

**“MEC”** means the Member of the Executive Council responsible for local government affairs in the Province of the Eastern Cape;

**“merging municipalities”** means those municipalities which, following a re-determination of boundaries in terms of section 21 of the Local Government: Municipal Demarcation Act, 1998 as amended (Act No. 27 of 1998), will be disestablished and their former areas of jurisdiction merged under new municipality to be established;

**“new municipality”** means the municipality that is established in terms of Part 2 of the Schedule;

**“proportionally elected councillors”** means councillors elected to proportionally represent the parties that contested the election in the municipality concerned;

**“ward councillor”** means a councillor elected to directly represent a ward.

**“traditional leader”** means a traditional leader as defined in the Traditional Leadership and Governance Framework Act, 41 of 2003;

## **2. Disestablishment of existing municipalities**

The existing municipalities are disestablished with effect from the effective date.

## **3. Establishment of the new municipality**

(1) The following new municipality is hereby established as set out in Part 2 of this Schedule: the Enoch Mgijima Local Municipality.

(2) The establishment of the new municipality mentioned in sub – paragraph (1) takes effect on the effective date.

## **4. Legal succession**

The new municipality supersedes the existing municipalities and becomes the successor in law of the existing municipalities.

## **5. Transfer of assets, rights, liabilities and obligations**

(1) The assets, rights, liabilities and obligations of disestablished municipalities, are hereby, subject to section 16(1)(h) read with section 14 of the Act transferred to the municipality.

(2) For the purpose of sub-paragraph (1), the performance of any function in question includes the exercising of a power.

(3) Administrative and other records relating to the assets, rights, liabilities and obligations referred to in sub-paragraph (1) vests, as from the effective date, in the new municipality.

## **6. Investments, cash and cash balances**

(1) As from the effective date all investments and all cash and cash balances in a bank account of the disestablished municipalities accrue to the new municipality established in terms of paragraph 4(1) in accordance with the following rules:

- (a) the investments, cash and cash balances of the disestablished municipalities referred to in paragraph 6, accrue to the new municipality.
- (b) notwithstanding the afore going, all cash and cash balances constituting funded reserves underpinning obligations or liabilities of a disestablished municipality shall accrue to the new municipality if it assumes those liabilities, or in proportion to the extent to which such liabilities had been assumed.

## **7. Valuations and supplementary rolls, rates policies and By-laws and tariffs**

(1) Section 89A and 90 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), must apply to incorporating municipalities with the necessary changes.

(2) In respect of merging municipalities, a new municipality must –

- (a) continue to apply the property rates policy, property rates By-laws and property rates tariffs that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction;
- (b) continue to apply the valuation roll and supplementary valuation roll that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction, together with any subsequent supplementary valuation rolls; and

- (c) levy rates against property values as shown on the valuation roll or supplementary valuation rolls, until it prepares and adopts a new general valuation roll in terms of Section 30 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

(3) In applying valuation rolls and supplementary valuation rolls in terms of subsection (2), a new municipality may, notwithstanding Section 19 (1)(a) of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), impose different rates based on the different valuation rolls or supplementary valuation rolls, to ensure that the rates payable on similarly situated and valued property is more or less the same.

## **8. Transfer of staff**

- (1) A person who on the effective date is an employee of a disestablished municipality becomes an employee of the new municipality in accordance with the following rules:
  - (a) the employment of employees by a new municipality is subject to any collective agreement and the Labour Relations Act, 1995 (Act No. 66 of 1995) as amended;
  - (b) an employee referred to is transferred to the new municipality on terms and conditions no less favourable than those under which such employee served immediately before the effective date;
  - (c) service by a person so transferred is deemed to be in the service as an employee of the new municipality to which the person is transferred and any leave, pension and other benefits that may have accrued to that person by virtue of service with the disestablished municipalities shall be deemed to have accrued in favour of such a person by virtue of service with the new municipality to which she or he is transferred;
  - (d) where an employee was a member of a medical aid scheme, pension or provident fund immediately before the effective date-
    - (i) that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the new municipality to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise,
    - (ii) the new municipality must deduct the necessary employee's contribution to the scheme or fund from the remuneration of the

employee and pay over to the scheme or fund in question together with the employer's contribution.

- (e) the new municipality must appoint a person who became an employee of the municipality in terms of sub-paragraph (i), to a post on the establishment of the new municipality, provided that such a person remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately prior to becoming such an employee, but subject further to any amendments concluded locally or in the applicable bargaining council.
- (f) nothing contained herein shall preclude a municipality from implementing a scheme to re-organize its staff subject to provisions of the Labour Relations Act.

## **9. Continued application of By-laws and resolutions**

- (1) All By-laws, regulations and resolutions applicable in the respective areas of the disestablished municipalities immediately prior to the effective date, continue to apply in such areas from the effective date, subject to any amendment or repeal by the Council of the new municipality.
- (2) Unless inconsistent with the context or clearly inappropriate, reference in any such By-law, regulation or resolution to-
  - (a) a disestablished municipality, must be construed as a reference to the new municipality; and
  - (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary in the newly established municipality.

## **PART 2**

### **1. ESTABLISHMENT OF LOCAL MUNICIPALITY**

- (1) A local municipality is hereby established.
- (2) The part of the local municipal area indicated as EC 139 is reflected in Notice No. 90 Provincial Gazette No. 3481 (extraordinary) dated 25 August 2015.

### **2. CATEGORY**

The local municipality is a Category B municipality as determined by the Demarcation Board in terms of section 3 of the Act.

### **3. TYPE**

The local municipality is of a type described in section 3(d) of the Determination of Types of Municipality Act, 2000 as amended (Act 5 of 2000(EC).

### **4. BOUNDARIES**

The boundaries of the local municipality are as indicated in a Map as contained in DEM 4505 as published in Notice No. 90 of Provincial Gazette No. 3481 (extraordinary) dated 25 August 2015.

### **5. NAME**

The name of the municipality is Enoch Mgijima Local Municipality.

### **6. COUNCILLORS**

(1) The Council of the local municipality consists of 68 councillors as determined in Provincial Notice No. 131 published in Provincial Gazette No. 3502 (Extraordinary) dated 21 September 2015.

(2) Full time councillors, are designated in accordance with policy framework contemplated in section 18(4) of the Act, subject to the following conditions:

(a) the municipality may submit to the MEC a motivation for further fulltime councillors, other than those specified under paragraph 7 below, in the event that there be a need to exceed the already approved fulltime councillors, on the following –

(i) the functions and duties to be performed by full-time office bearers.

(ii) the municipality's financial capacity to pay the remuneration attached to the full-time office bearers.

(b) The final designation of full-time councillors will be made by the MEC after receipt of the above-mentioned motivation by way of a notice in the Provincial Gazette.

### **7. FULLTIME COUNCILLORS**

The council of the new local municipality may subject to conditions contained in paragraph 6(2) in this Part, designate the following office bearers as fulltime:



- (a) Speaker
- (b) Executive Mayor

## **8. WARDS**

The new local municipality has 34 wards as determined by the Demarcation Board.

## **9. TRADITIONAL LEADERS**

The Council of the new local municipality will consist of traditional leaders in line with Section 81 of the Local Government: Municipal Structures Act, 1998 (117 of 1998) as amended.

## **10. SEAT OF FIRST MEETING**

The seat of the new municipality for the purpose of the first meeting of its council after effective date shall be at Queenstown/Komani which shall be deemed to be the seat of the local municipality until determined otherwise in terms of this Act.

## **11. INTERIM MUNICIPAL MANAGER**

Pending the appointment by the Municipal Council of an Acting Municipal Manager or Municipal Manager in terms of Section 82 of the Act, the following person is designated in terms of Section 29 (2) of the Act to call the first Council meeting of the new municipality and such person shall be deemed to be the Acting Municipal Manager from the effective date until the Council appoints an Acting Municipal Manager or Municipal Manager.

Ms. N. Gqiba

## **12. ELECTION OF SPEAKER**

- 1) At its first meeting after its election the Council must elect its Speaker from among its councillors.
- 2) The Interim Municipal Manager presides over the election of the Speaker.
- 3) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Speaker.
- 4) The elected Speaker presides over the remainder of the first meeting of the Council and the councillors from different political parties may express a sense of honour conferred upon him or her.

### **13. ELECTION OF MAYOR**

- 1) At its first meeting after its election, the Council must elect a Mayor.
- 2) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Mayor.

### **EXISTING DRAFT STANDING RULES FOR FIRST MEETING**

The existing Draft Standing Rules of Order as provided by SALGA will guide the sitting of the first meeting of the new local municipality.'

## PROVINCIAL NOTICE 151 OF 2016

**PROVINCE OF THE EASTERN CAPE  
DEPARTMENT OF COOPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS  
PUBLICATION FOR PUBLIC COMMENT**

**PROPOSED PUBLICATION OF THE AMENDMENT AND REPEAL OF PROVINCIAL NOTICE NO. 108 DATED 2 DECEMBER 2000, AS AMENDED, ISSUED IN TERMS OF SECTION 12 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 (ACT NO. 117 OF 1998)**

In terms of section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, the attached schedule is hereby published for public comment before its enactment.

1. Comments must please be submitted in writing to:  
The Head of Department  
Attention: Mrs Sihunu  
Department of Cooperative Governance and Traditional Affairs  
Private Bag X0035  
Bhisho  
5605
2. Comments must be faxed to facsimile number (040) 639 1768 at the above address
3. Comments must be submitted within fourteen (14) days of the date of publication in the Provincial Gazette.

I, **FIKILE XASA**, Member of the Executive Council responsible for local government in the Province of the Eastern Cape, after the consultation process prescribed in Section 12 (4)(c) and 16 (3)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, hereby propose to amend and repeal the existing establishment notice in respect of Gariep and Maletswai Local Municipalities and establish a new municipality: Walter Sisulu Local Municipality.

  
FIKILE XASA

**MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR LOCAL  
GOVERNMENT – PROVINCE OF THE EASTERN CAPE**

DATE: 22/6/2016

## SCHEDULE

### PART 1

#### Definitions

1. In this schedule, unless the context otherwise indicates or unless redefined herein, a word or expression to which meaning has been assigned in the Local Government: Municipal Structures Act, 1998 as amended, or Chapter 2 of the Local Government: Municipal Structures Amendment Act, 2000 as amended has the same meaning and

“**Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended;

“**affected municipalities**” means the merging municipality or a new municipality when it is established, as the case may be;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 as amended;

“**demarcation notice**” means Provincial Notice No. 90 of 2015 published in *Provincial Gazette* No 3481 dated 25 August 2015, as amended;

“**disestablished municipality**” means an existing municipality disestablished in terms of paragraph 2 of Part 1 of this schedule;

“**effective date**” means the day on which the results of the local government municipality elections are declared in terms of section 190(1)(c) of the Constitution;

“**elections**” means the municipal elections taking place on the date of municipal elections;

“**existing municipalities**” means the Gariep Local Municipality and the Maletswai Local Municipality;

“**MEC**” means the Member of the Executive Council responsible for local government affairs in the Province of the Eastern Cape;

“**merging municipalities**” means those municipalities which, following a re-determination of boundaries in terms of section 21 of the Local Government:

Municipal Demarcation Act, 1998 as amended (Act No. 27 of 1998), will be disestablished and their former areas of jurisdiction merged under new municipality to be established;

**“new municipality”** means the municipality that is established in terms of Part 2 of the Schedule;

**“proportionally elected councillors”** means councillors elected to proportionally represent the parties that contested the election in the municipality concerned;

**“ward councillor”** means a councillor elected to directly represent a ward.

## **2. Disestablishment of existing municipalities**

The existing municipalities are disestablished with effect from the effective date.

## **3. Establishment of the new municipality**

- (1) The following new municipality is hereby established as set out in Part 2 of this Schedule: the Walter Sisulu Local Municipality.
- (2) The establishment of the new municipality mentioned in sub – paragraph (1) takes effect on the effective date.

## **4. Legal succession**

The new municipality supersedes the existing municipalities and becomes the successor in law of the existing municipalities.

## **5. Transfer of assets, rights, liabilities and obligations**

(1) The assets, rights, liabilities and obligations of disestablished municipalities, are hereby, subject to section 16(1)(h) read with section 14 of the Act transferred to the municipality.

(2) For the purpose of sub-paragraph (1), the performance of any function in question includes the exercising of a power.

(3) Administrative and other records relating to the assets, rights, liabilities and obligations referred to in sub-paragraph (1) vests, as from the effective date, in the new municipality.

## **6. Investments, cash and cash balances**

- (1) As from the effective date all investments and all cash and cash balances in a bank account of the disestablished municipalities accrue to the new municipality established in terms of paragraph 4(1) in accordance with the following rules:
  - (a) the investments, cash and cash balances of the disestablished municipalities referred to in paragraph 6, accrue to the new municipality.
  - (b) notwithstanding the afore going, all cash and cash balances constituting funded reserves underpinning obligations or liabilities of a disestablished municipality shall accrue to the new municipality if it assumes those liabilities, or in proportion to the extent to which such liabilities had been assumed.

## **7. Valuations and supplementary rolls, rates policies and By-laws and tariffs**

7. (1) Section 89A and 90 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), must apply to incorporating municipalities with the necessary changes.

(2) In respect of merging municipalities, a new municipality must –

- (a) continue to apply the property rates policy, property rates By-laws and property rates tariffs that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction;
- (b) continue to apply the valuation roll and supplementary valuation roll that are in force in the former area or areas of jurisdiction of the relevant merging municipalities, which have been included in its area of jurisdiction, together with any subsequent supplementary valuation rolls; and
- (c) levy rates against property values as shown on the valuation roll or supplementary valuation rolls, until it prepares and adopts a new general valuation roll in terms of Section 30 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

(3) In applying valuation rolls and supplementary valuation rolls in terms of subsection (2), a new municipality may, notwithstanding Section 19 (1)(a) of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), impose



different rates based on the different valuation rolls or supplementary valuation rolls, to ensure that the rates payable on similarly situated and valued property is more or less the same.

## 8. Transfer of staff

- (1) A person who on the effective date is an employee of a disestablished municipality becomes an employee of the new municipality in accordance with the following rules:
  - (a) the employment of employees by a new municipality is subject to any collective agreement and the Labour Relations Act, 1995 (Act No. 66 of 1995) as amended;
  - (b) an employee referred to is transferred to the new municipality on terms and conditions no less favourable than those under which such employee served immediately before the effective date;
  - (c) service by a person so transferred is deemed to be in the service as an employee of the new municipality to which the person is transferred and any leave, pension and other benefits that may have accrued to that person by virtue of service with the disestablished municipalities shall be deemed to have accrued in favour of such a person by virtue of service with the new municipality to which she or he is transferred;
  - (d) where an employee was a member of a medical aid scheme, pension or provident fund immediately before the effective date-
    - (i) that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the new municipality to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise,
    - (ii) the new municipality must deduct the necessary employee's contribution to the scheme or fund from the remuneration of the employee and pay over to the scheme or fund in question together with the employer's contribution.
  - (e) the new municipality must appoint a person who became an employee of the municipality concerned in terms of sub-paragraph (i), to a post on the establishment of new municipality, provided that such a person remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately prior to becoming such an employee, but subject further to any amendments concluded locally or in the applicable bargaining council.

- (f) nothing contained herein shall preclude a municipality from implementing a scheme to re-organize its staff subject to provisions of the Labour Relations Act.

## **9. Continued application of By-laws and resolutions**

- (1) All By-laws, regulations and resolutions that apply in the area of the disestablished municipalities immediately prior to the effective date, continue to apply in such areas from the effective date, subject to any amendment or repeal by the Council of the new municipality.
- (2) Unless inconsistent with the context or clearly inappropriate, reference in any such By-law, regulation or resolution to-
- (a) a disestablished municipality, must be construed as a reference to the new municipality; and
  - (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary in the newly established municipality.

## **PART 2**

### **1. ESTABLISHMENT OF LOCAL MUNICIPALITY**

- (1) The new municipality is hereby established.
- (2) The part of the local municipal area indicated as EC 145 is reflected in Notice No. 90 Provincial Gazette No. 3481 (extraordinary) dated 25 August 2015.

### **2. CATEGORY**

The local municipality is a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Act.

### **3. TYPE**

The local municipality is of a type described in section 3(b) of the Determination of Types of Municipality Act, 2000 as amended (Act 5 of 2000(EC)).

#### **4. BOUNDARIES**

The boundaries of the new local municipality are as indicated in a Map as contained in DEM 4502 as published in Notice No. 90 of Provincial Gazette No. 3481 (extraordinary) dated 25 August 2015.

#### **5. NAME**

The name of the new municipality is Walter Sisulu Local Municipality.

#### **6. COUNCILLORS**

(1) The Council of the new local municipality consists of 22 councillors as determined in Provincial Notice No. 131 published in Provincial Gazette No. 3502 (Extraordinary) dated 21 September 2015.

(2) Full time councillors, if any, are designated in accordance with policy framework contemplated in Section 18(4) of the Act, subject to the following conditions:

- (a) The municipality may submit to the MEC a motivation for further fulltime councillors, other than those specified under paragraph 7 below, in the event that there be a need to exceed the already approved fulltime councillors, on the following –
  - (i) the functions and duties to be performed by full-time office bearers.
  - (ii) the municipality's financial capacity to pay the remuneration attached to the full-time office bearers.
- (b) The final designation of full-time councillors be made by the MEC after receipt of the above-mentioned motivation by way of a notice in the Provincial Gazette.

#### **7. FULLTIME COUNCILLORS**

The council of the new local municipality may subject to conditions contained in paragraph 6(2) in this Part, designate the following office bearers as fulltime:

- (a) Speaker
- (b) Mayor

## **8. WARDS**

The new local municipality has 11 wards as determined by the Demarcation Board.

## **9. SEAT OF FIRST MEETING**

The seat of the new municipality for the purpose of the first meeting of its council after the effective date shall be at Burgersdorp which shall be deemed to be the seat of the local municipality until determined otherwise in terms of this Act.

## **10. INTERIM MUNICIPAL MANAGER**

Pending the appointment by the Municipal Council of an Acting Municipal Manager or Municipal Manager in terms of Section 82 of the Act, the following person is designated in terms of Section 29 (2) of the Act to call the first Council meeting of the new municipality and such person shall be deemed to be the Acting Municipal Manager from the effective date until the Council appoints an Acting Municipal Manager or Municipal Manager.

**Mr. T. MAWONGA**

## **11. ELECTION OF SPEAKER**

- 1) At its first meeting after its election the Council must elect its Speaker from among its councillors.
- 2) The Municipal Manager will preside over the election of the Speaker.
- 3) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Speaker.
- 4) The elected Speaker presides over the remainder of the first meeting of the Council and the councillors from different political parties may express a sense of honour conferred upon him or her.

## **12. ELECTION OF MAYOR**

- 1) At its first meeting after its election, the Council must elect a Mayor.
- 2) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Mayor.

## **13. STANDING RULES FOR FIRST MEETING**

The Draft Standing Rules and Order as provided by SALGA will guide the sitting of the first meeting of the new local municipality.



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