

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette
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**Buitengewone
Provinsiale Koerant**

**Isongezelelo
kwiGazethi yePhondo**

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CONTENTS

INHOUD

IZIQUATHO

(*Reprints are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)

(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

(*Ushicilelo oLutsha lufumaneka kwigumbi M21, kwiSakhiwo sePhondo seNdlu yoWiso-Mthetho, 7 Wale Street, eKapa 8001.)

Provincial Notice

Provinsiale Kennisgewing

ISaziso sePhondo

The following Provincial Notice is published for comment:

Die volgende Provinsiale Kennisgewing word vir kommentaar gepubliseer:

Ezi saziso silandelayo sipapashelwe ukunika ulwazi ngokubanzi:

91 Draft Western Cape Land Use Planning Amendment Bill, 20202

91 Wes-Kaapse Konsepwysigingswetsontwerp op Grondgebruikbeplanning, 2020.....5

91 Uqulunqo Lomthetho Oyilwayo Wentshona Koloni Wocwangciso Lokusetyenziswa Komhlaba, 2020.....8

Any person or organisation wishing to comment on the Draft Western Cape Land Use Planning Amendment Bill, 2020, is requested to submit such comment in writing before or on 24 September 2020 —

Enige persoon of organisasie wat op die voorgestelde Wes-Kaapse Konsepwysigingswetsontwerp op Grondgebruikbeplanning, 2020, kommentaar wil lewer, word versoek om sodanige kommentaar skriftelik in te dien voor of op 24 September 2020—

Nawuphi na umntu okanye umbutho onqwenela ukunika izimvo kuMthetho-siHlomelo oYilwayo woCwangciso lokuSetyenziswa koMhlaba eNtshona Koloni, 2020, uyacelwa ukuba angenise olo luvo ngokubhala ngaphambi okanye ngomhla 24 kweyeMsintsi 2020—

(a) by posting it to:
The Director
Directorate Development Management,
Region 2
Department of Environmental Affairs and
Development Planning
Private Bag X9086
Cape Town 8000
Attention: Mr Theo Rebel;

(a) deur dit te pos aan:
Die Direkteur
Direktoraat Ontwikkelingsbeheer,
Streek 2
Departement van Omgewingsake en
Ontwikkelingsbeplanning
Privaat Sak X9086
Kaapstad 8000
Aandag: Mnr. Theo Rebel;

(a) ngokuthumela ngeposi ku:
UMlawuli
ICandelo loLawulo loPhuhliso,
Ingingqi yesi-2
ISEbe leMicimbi yokusiNgqongileyo
noCwangciso loPhuhliso
Private Bag X9086
EKapa 8000
Ukuqwalaselwa ngu: Mnu Theo Rebel;

(b) by delivering it to:
Registry
Utilitas Building
1 Dorp Street
Cape Town 8001
Attention: Mr Theo Rebel;

(b) deur dit af te lewer by:
Registrasie
Utilitas-gebou
Dorpstraat 1
Kaapstad 8001
Aandag: Mnr. Theo Rebel;

(b) ngokuhambisa kwi:
Igumbi lokugcina iiRejista
Isakhiwo se-Utilitas
1 Dorp Street
EKapa 8001
Ukuqwalaselwa ngu: Mnu Theo Rebel;

(c) by faxing it to:
Fax no.: 021 483 3633
Attention: Mr Theo Rebel; or

(c) deur dit te faks na:
Faksnr.: 021 483 3633
Aandag: Mnr. Theo Rebel; of

(c) ngokuthumela ifeksi ku:
Inombolo yefeksi.: 021 483 3633
Ukuqwalaselwa ngu: Mnu Theo Rebel; okanye

(d) by e-mailing it to:
theo.rebel@westerncape.gov.za.

(d) deur dit per e-pos te stuur na:
theo.rebel@westerncape.gov.za.

(d) ngokuthumela i-imeyile ku:
theo.rebel@westerncape.gov.za.

PROVINCIAL NOTICE

The following Provincial Notice is published for comment.

DR H.C. MALILA,
DIRECTOR-GENERAL

Provincial Legislature Building,
Wale Street,
Cape Town.

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir kommentaar gepubliseer.

DR H.C. MALILA,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaapstad.

ISAZISO SEPHONDO

Esi saziso silandelayo sipapashelwe ukunika izimvo.

GQIR H.C. MALILA,
MLAWULI-JIKELELE

ISakhiwo sePhondo,
Wale Street,
eKapa.

PROVINCIAL NOTICE

P.N. 91/2020

10 September 2020

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

**DRAFT WESTERN CAPE
LAND USE PLANNING AMENDMENT BILL, 2020**

To amend the Western Cape Land Use Planning Act, 2014, so as to do away with the reference to section 115 of the Local Government: Municipal Systems Act, 2000; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Parliament of the Western Cape, as follows:

Amendment of section 44 of Act 3 of 2014

1. Section 44 of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), is amended by the deletion of paragraph (b) of subsection (2). 5

Short title

2. This Act is called the Western Cape Land Use Planning Amendment Act, 2020.

MEMORANDUM ON THE OBJECTS OF THE DRAFT WESTERN CAPE LAND USE PLANNING AMENDMENT BILL, 2020

1. BACKGROUND

- 1.1 The Western Cape Land Use Planning Act, 2014 (Act 3 of 2014)(LUPA), was assented to on 31 March 2014. Different sections of the Act commenced in different municipalities on different dates between 2015 and 2016.
- 1.2 Section 44(1) of LUPA requires a municipality to cause a notice to be served when it intends to consider certain types of land use applications. Section 44(2) of LUPA deals with the manner in which the notice must be served. The reference to section 115 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)(the Municipal Systems Act), in section 44(2) of LUPA limits the methods that may be used to give direct notice for the purposes of section 44(1) to the following:
 - 1.2.1 personal delivery;
 - 1.2.2 leaving the notice at the person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - 1.2.3 posting the notice by registered or certified mail to the person's last known residential or business address in the Republic, and obtaining an acknowledgement of the posting thereof from the postal service;
 - 1.2.4 serving the notice on the person's agent or representative in the Republic using one of the methods indicated above if the person's address in the Republic is unknown; or
 - 1.2.5 posting the notice in a conspicuous place on the property or premises, if any, to which it relates if the person's address and agent or representative in the Republic is unknown.
- 1.3 Using any other methods for direct notification, such as electronic communication methods, is not permitted in terms of section 44(2)(b) of LUPA. The Draft Western Cape Land Use Planning Amendment Bill, 2020 (the Draft Amendment Bill), arose from the need to delete the reference to section 115 of the Municipal Systems Act.

2. OBJECTS OF DRAFT BILL

- 2.1 The objects of the Draft Amendment Bill are to enable municipalities to cause notice of their intention to consider matters contemplated in section 44(1) of LUPA to be served by using methods in addition to those listed in section 115 of the Municipal Systems Act.

3. CONTENTS OF DRAFT BILL

- 3.1 **Clause 1** amends section 44 of LUPA by deleting subsection (2)(b) to omit the reference to the list of methods of direct notification set out in section 115 of the Municipal Systems Act.
- 3.2 **Clause 2** sets out the short title of the Draft Amendment Bill once enacted.

4. CONSULTATION

Department of the Premier: Legal Services

5. PERSONNEL IMPLICATIONS

None

6. FINANCIAL IMPLICATIONS

None

7. LEGISLATIVE COMPETENCE

The Provincial Minister responsible for local government, environmental affairs and development planning is satisfied that the provisions of the Draft Amendment Bill fall within the legislative competence of the Province.

PROVINSIALE KENNISGEWING

P.K. 91/2020

10 September 2020

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vetdruk tussen vierkantige hake dui skrapings uit
 bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder dui invoegings in
 bestaande verordenings aan.
-
-

**WES-KAAPSE KONSEPWYSIGINGSWETSONTWERP
OP GRONDGEBRUIKBEPLANNING, 2020**

Tot wysiging van die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014, om die verwysing na artikel 115 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000, te verwyder; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

Wysiging van artikel 44 van Wet 3 van 2014

1. Artikel 44 van die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (Wet 3 van 2014), word gewysig deur paragraaf (*b*) van subartikel (2) te skrap. 5

Kort titel

2. Hierdie Wet heet die Wes-Kaapse Wysigingswet op Grondgebruikbeplanning, 2020.

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE KONSEPWYSIGINGSWETSONTWERP OP GRONDGEBRUIKBEPLANNING, 2020

1. AGTERGROND

- 1.1 Die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (Wet 3 van 2014)(LUPA), is op 31 Maart 2014 bekragtig. Tussen 2015 en 2016 het verskillende artikels van die Wet op verskillende datums in verskillende munisipaliteite in werking getree.
- 1.2 Artikel 44(1) van LUPA vereis dat 'n munisipaliteit 'n kennisgewing moet laat beteken wanneer hy van voorneme is om sekere soorte grondgebruikaansoeke te oorweeg. Artikel 44(2) van LUPA handel met die wyse waarop die kennisgewing beteken moet word. Die verwysing na artikel 115 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000)(die Munisipale Stelselswet), in artikel 44(2) van LUPA beperk die metodes wat gebruik kan word om vir die doeleindes van artikel 44(1) direk kennis te gee, tot die volgende:
 - 1.2.1 deur persoonlike aflewering;
 - 1.2.2 deur die kennisgewing by die persoon se woning of sake-onderneming in die Republiek by 'n persoon wat oënskynlik oor die ouderdom van sestien jaar is, te laat;
 - 1.2.3 deur die kennisgewing per geregistreerde of gesertifiseerde pos na die persoon se laaste bekende woon- of sake-adres in die Republiek te pos en bevestiging van die pos daarvan van die posdiens te verkry;
 - 1.2.4 deur die kennisgewing op die persoon se agent of verteenwoordiger in die Republiek te bestel op een van die metodes aangedui hierbo indien die persoon se adres in die Republiek onbekend is; of
 - 1.2.5 deur die kennisgewing op 'n opsigtelike plek te plak op die eiendom of perseel, indien enige, waarop dit betrekking het, indien die persoon se adres en agent of verteenwoordiger in die Republiek onbekend is.
- 1.3 Die gebruik van enige ander metodes vir direkte kennisgewing, soos elektroniese kommunikasie-metodes, word nie ingevolge artikel 44(2)(b) van LUPA toegelaat nie. Die Wes-Kaapse Konsepwysigingswetsontwerp op Grondgebruikbeplanning, 2020 (die Konsepwysigingswetsontwerp), spruit uit die behoefte om die verwysing na artikel 115 van die Munisipale Stelselswet te skrap.

2. OOGMERKE VAN WETSONTWERP

- 2.1 Die oogmerke van die Konsepwysigingswetsontwerp is om munisipaliteite in staat te stel om kennis van hul voorneme om aangeleenthede beoog in artikel 44(1) van LUPA te oorweeg, te laat beteken deur middel van metodes benewens dié wat in artikel 115 van die Munisipale Stelselswet vermeld word.

3. INHOUD VAN WETSONTWERP

- 3.1 **Klousule 1** wysig artikel 44 van LUPA deur subartikel (2)(b) te skrap om die verwysing na die lys metodes van direkte kennisgewing uiteengesit in artikel 115 van die Munisipale Stelselswet, weg te laat.
- 3.2 **Klousule 2** bevat die kort titel van die Konsepwysigingswetsontwerp wanneer dit bekragtig is.

4. OORLEGPLEGING

Departement van die Premier: Regsdienste

5. PERSONEELIMPLIKASIES

Geen

6. FINANSIËLE IMPLIKASIES

Geen

7. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir plaaslike regering, omgewingsake en ontwikkelingsbeplanning is tevrede dat die bepalings van die Konsepwysigingswetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

ISAZISO SEPHONDO

I.S. 91/2020

10 kweyeMsintsi 2020

INGCACISO GABALALA:

- [] Amagama abhalwe ngqindilili kwizibiyeli ezisikwere abonakalisa oko kuye kwasuswa kwimithetho esele iphunyeziwe.
- _____ Amagama akrwelelwe umgca ongqindilili ngaphantsi abonakalisa oko kufakelweyo kumthetho osele uphunyeziwe kwimithetho ekhoyo.

**UQULUNQO LOMTHETHO
OYILWAYO WENTSHONA KOLONI WOCWANGCISO
LOKUSETYENZISWA KOMHLABA, 2020**

Ukulungisa umthetho woCwangciso lokuSetyenziswa koMhlaba eNtshona Koloni, 2014, ukuze kupheliswe ireferensi yecandelo le-115 loMthetho woRhulumente waseKhaya: Umthetho weeNkqubo zikaMasipala, 2000; nokulungiselela imicimbi enxulumene noko.

YENZIWE yiPalamente yePhondo leNtshona Koloni ngolu hlobo lulandelayo:—

Ukulungiswa kwecandelo lama-44 loMthetho wesi-3 ka-2014

1. Icandelo lama-44 loMthetho woCwangciso loSetyenziso loMhlaba eNtshona Koloni, 2014, ulungiswe ngokususwa komhlathi (*b*) wecandelwana (2). 5

Isihloko esifutshane

2. Lo Mthetho ubizwa ngokuba nguMthetho woLungiso loCwangciso lokuSetyenziswa koMhlaba eNtshona Koloni, wama-2020.

**MEMORANDAM KWIINJONGO ZOQULUNQO LOMTHETHO
OYILWAYO WOCWANGCISO LOKUSETYENZISWA KOMHLABA
ENTSHONA KOLONI, 2020**

1. IMVELAPHI

- 1.1 UMthetho woCwangciso lokuSetyenziswa koMhlaba eNtshona Koloni, 2014 (uMthetho 3 ka-2014)(i-LUPA), wamkelwa ngomhla wama-31 kweyoKwindla 2014. Amacandelo ahlukeneyo aqala koomasipala abohlukeneyo ngemihla eyohlukeneyo phakathi ko-2015 no-2016.
- 1.2 Icandelo 44(1) le-LUPA lifuna ukuba umasipala enze isaziso ukuba sithunyelwe xa siceba ukuqaphela iintlobo ezithile zezicelo zokusetyenziswa komhlaba. Icandelo 44(2) le-LUPA lijongana nendlela ekufuneka sinikezwe ngayo isaziso. Ukubhekiswa kwicandelo le-115 likaRhulumente waseKhaya: UMthetho weeNkqubo zikaMasipala, 2000 (UMthetho 32 ka-2000) (UMthetho weeNkqubo), kwicandelo 44(2) le-LUPA linciphisa iindlela ezinokuthi zisetyenziselwe ukunika isaziso ngqo ngeenjongo lecandelo 44(1) koku kulandelayo:
 - 1.2.1 ukuhanjiswa ngumntu ngokwakhe;
 - 1.2.2 ukushiya isaziso kwindawo ahlala kuyo umntu okanye ishishini kwiRiphabhlikhi kumntu ongaphezulu kweminyaka elishumi elinesithandathu;
 - 1.2.3 ukuthumela isaziso ngeposi ebhalisiweyo okanye eqinisekisiweyo kwidilesi yomntu yokugqibela yendawo yokuhlala eyaziwayo okanye yeshishini kwiRiphabhlikhi, kwaye kufunyanwe isiqinisekiso sokuposwa kwayo kwinkonzo yeposi;
 - 1.2.4 ukuhambisa isaziso kwi-arhente yomntu okanye ummeli kwiRiphabliki ngenye yeendlela ezichazwe apha ngasentla ukuba idilesi yomntu kwiRiphabhlikhi ayaziwa; okanye
 - 1.2.5 ukuthumela isaziso kwindawo ebonakalayo kwipropathi okanye kuloo ndawo, ukuba ikho, enxulumene nako ukuba idilesi yomntu kunye ne-arhente okanye ummeli wakhe kwiRiphabhlikhi ayaziwa.
- 1.3 Ukusebenzisa naziphi na ezinye iindlela zokwazisa ngokuthe ngqo, njengeendlela zonxibelelwano ze-intanethi, akuvumelekanga ngokwemigaqo yecandelo 44(2)(b) le-LUPA. UMthetho woQulunqo oYilwayo woCwangciso loSetyenziso lweMihlaba eNtshona Koloni ka-2020, (uYilo loMthetho oYilwayo), uvele kwimfuno yokucima ireferensi kwicandelo le-115 loMthetho weeNkqubo.

2. IINJONGO ZOQULUNQO LOMTHETHO OYILWAYO

- 2.1 Iinjongo zoQulunqo loMthetho oYilwayo kukwenza ukuba oomasipala benze isaziso senjongo yabo yokujonga imicimbi echazwe kwicandelo 44(1) le-LUPA ukuba ihanjiswe kusetyenziswa iindlela ukongeza kwezo zidweliswe kwicandelo le-115 loMthetho weeNkqubo zikaMasipala.

3. IZIQULATHO ZOQULUNQO LOMTHETHO OYILWAYO

- 3.1 **Igaty loku-1** lenza izilungiso kwicandelo 44 le-LUPA ngokucima icandelwana (2)(b) ukushiya ireferensi kuluhlu lweendlela zesaziso ezichazwe kwicandelo le-115 loMthetho weeNkqubo.
- 3.2 **Igaty lesi-2** libeka isihloko esifutshane soQulunqo loMthetho oYilwayo emva kokuba wawuwisiwe.

4. UKUCETYISWA

ISebe leNkulumbuso: Iinkonzo zezoMthetho

5. IIMPEMBELELO ZABASEBENZI

Azikho

6. IIMPEMBELELO ZEZEMALI

Azikho

7. UBUCHULE BEZOMTHETHO

UMphathiswa wePhondo ojongene norhulumente wekhaya, imicimbi yokusingqongileyo kunye nokucwangciswa kophuhliso wanelisekile ukuba imigqaliselo yoQulunqo loMthetho oYilwayo iwela kubuchule bezomthetho bePhondo.