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The Chairperson

NATIONAL COUNCIL OF PROVINCES (NCOP)

P.O. Box 15

CAPE TOWN

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Dear Hon. Modise,

3 September 2014

**PROVINCIAL INTERVENTION IN TERMS OF SECTION 139 (1)(c) OF THE CONSTITUTION
(ACT 108 OF 1996) IN NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY**

1. This communiqué serves to inform you that the North West Provincial EXCO has resolved on even date to invoke provisions of section 139(1)(c) of the Constitution in the Ngaka Modiri Molema District municipality with effect from the 3rd day of September 2014 for a minimum period of twelve (12) months. The decision was taken at a meeting of EXCO of the 03rd of September 2014.
2. The Provincial government through the department of Local government and Human Settlements, has a legislative mandate to regularly monitor the performance and status of municipalities, provide support, build capacity, and intervene where it is necessary. The department has identified areas in the municipality where there is a need to intervene through other legislative measures as there are evident signs of poor administration and governance in the municipality, which negatively affect service delivery.
3. The decision of the Provincial EXCO came as a result of the failure by the political leadership of the municipality to provide leadership and exercise oversight, and not taking ownership and not acting on the irregularities in the administration of the municipality.

4. The following are, among others, the areas identified by the Provincial EXCO that resulted in the intervention:
- Failure by the district municipality to provide quality services to the residents of the Ngaka Modiri Molema District (in line with powers and functions)
 - Failure to implement programmes and projects relating to infrastructure programmes for water and sanitation services
 - Poor administration of service delivery related programmes (poor infrastructure spending, poor monitoring of projects and programmes)
 - Poor integration and coordination of infrastructure and other programmes with the local municipalities as the water services authority (in terms of the Intergovernmental Relations Framework Act)
 - Failure by council to act on alleged maladministration, fraud and corruption
 - Failure by the district municipality to provide support to the local municipalities in terms of section 88 of the Municipal Structures Act
 - Failure by the district municipality to comply with applicable legislation and regulations governing the local sphere of government (Municipal Systems Act, Municipal Systems Amendment Act of 2011, Municipal Structures Act, Municipal Finance Management Act)
5. It must also be noted that the decision referred to herein above, was taken having noted and considered all the facts necessary and requisite which include, amongst others but not limited to, oral representations by the Municipality through the meeting held with the MEC on the 21st of August 2014, the letter dated 21st August 2014 together with annexures in support thereto.
6. It therefore on the basis of the above, that the Provincial EXCO resolved that exceptional circumstances exist, which warrant that the provisions of section 139(1)(c) of the Constitution be invoked, which section states that:

"When a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation, including dissolving the Municipal Council and appointing an Administrator until a newly formed Council has been declared elected, if exceptional circumstances warrant such a step."

7. The implications of the Provincial EXCO are that:

The Council of Ngaka Modiri Molema District Municipality will be dissolved and as such the Administrator to be appointed will have full powers which powers would ordinarily rest with the Council.

8. The Provincial EXCO will appoint an Administrator who will implement the intervention on behalf of the Provincial executive with immediate effect. The Administrator will be supported by a team of experts to ensure the successful implementation of the intervention.

Your support and approval of the intervention in terms of section 139 (3)(a and b) of the Constitution will be highly appreciated.

Regards,

MEC C. MAINE (MPL)

NW DEPARTMENT OF LOCAL GOVERNMENT AND HUMAN SETTLEMENTS

DATE:

CC: Premier S.O.R. Mahumapelo

ENQ: MR. MOTSEOKAE MAJE (HEAD OF MEC SUPPORT) - CEL: 076 305 1205

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