



**REFERENCE: 2/2/3/9 (2016/2020)**

The Chairperson  
National Council of Provinces

**CAPE TOWN**

8000

Per email: [framosana@parliament.gov.za](mailto:framosana@parliament.gov.za)

Dear Ms Modise

**PROVINCIAL INTERVENTION IN TERMS OF S139(5) OF THE CONSTITUTION IN KANNALAND MUNICIPALITY**

Notice is hereby given that the Provincial Executive of the Western Cape on 7 December 2016 resolved to approve steps to intervene in terms of section 139(5) of the Constitution in the Kannaland Municipality.

This decision by the Provincial Cabinet follows a request made to the Western Cape Government by the recently-elected Kannaland Municipal Council for:

- A provincial intervention in terms of section 139(5) of the Constitution; and
- A targeted support package to address the immediate governance, operational and technical needs of the Kannaland Municipality.

This request was formulated via a resolution adopted by the Kannaland Municipal Council at a special Council meeting held on 2 December 2016.

The Kannaland Municipality is in a precarious financial position in terms of the most recent audit finding from the Auditor-General for the financial year ending June 2016 resulting in an adverse finding – the worst possible finding by the Auditor-General. The facts determined to date, together with the request received from the Kannaland Municipal Council, confirm that the municipality is currently experiencing a serious financial crisis and, as a result of this crisis, is not able to meet its financial obligations.

In light hereof, the Provincial Executive of the Western Cape resolved on 7 December 2016 to request the Provincial Treasury to prepare an appropriate financial

recovery plan for Kannaland Municipality in terms of section 139(5) of the Constitution, read with the relevant provisions of the Municipal Finance Management Act (MFMA). This recovery plan will only be imposed by the Provincial Cabinet and approved by the Provincial Minister: Finance once it has been prepared and finalised in accordance with the provisions of the MFMA.

In addition, my Department of Local Government and Provincial Treasury have been requested by the Provincial Cabinet to develop and implement – with support from all relevant national and provincial stakeholders and subject to available resources – a targeted support package to address the immediate governance, operational and technical needs of Kannaland Municipality. The current Council will remain in place and will provide support to the Western Cape Government in developing and giving effect to the financial recovery plan and targeted support package.

The provincial intervention in Kannaland Municipality has the full support of the Department of Cooperative Governance and Traditional Affairs, the Provincial Treasury, as well as the current Kannaland Municipal Council. The provincial intervention and targeted support package are aimed at strengthening and supporting the capacity of Kannaland Municipality to manage its own affairs, perform its functions and exercise its powers.

I would like to assure you that this intervention has been and remains a collaborative effort between local, provincial and national government.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Anton Bredell', written in a cursive style.

Anton Bredell

**MINISTER**

Date: 21-12-2016

**ENDORSEMENT:**

Mr D van Rooyen, MP

Minister of Cooperative Governance and Traditional Affairs

Private Bag X802

PRETORIA

0001

Via email: [koketsol@coagta.gov.za](mailto:koketsol@coagta.gov.za)

The Director General Fuzile

National Treasury

Private Bag X115

PRETORIA

0001

Per email: [Huntly.Pringle@treasury.gov.za](mailto:Huntly.Pringle@treasury.gov.za) / [Felicitas.Mogase@treasury.gov.za](mailto:Felicitas.Mogase@treasury.gov.za)



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**MEMORANDUM**

**TO: M J MOHAPI, MP**  
**CHAIRPERSON OF SELECT COMMITTEE ON CO-OPERATIVE**  
**GOVERNANCE AND TRADITIONAL AFFAIRS**

**FROM: TR MODISE, MP**  
**CHAIRPERSON: NATIONAL COUNCIL OF PROVINCES**

**DATE: 19 JANUARY 2017**

**RE: NOTICE OF INTERVENTION ISSUED IN TERMS OF SECTION 139(5) OF**  
**THE CONSTITUTION, 1996 TO KANNALAND LOCAL MUNICIPALITY,**  
**WESTERN CAPE**

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I have received correspondence from the Provincial Minister for Local Government, Environmental Affairs and Development Planning in the Western Cape in terms of section 139(6)(b) of the Constitution, 1996. A copy is therefore attached.

Pursuant to Rule 101 the Notice is accordingly referred to the Select Committee on Co-operative Governance and Traditional Affairs.

Yours sincerely,



**T R MODISE, MP**  
**CHAIRPERSON: NATIONAL COUNCIL OF PROVINCES**

**MEMORANDUM**

**TO: T R MODISE, MP**  
**CHAIRPERSON: NATIONAL COUNCIL OF PROVINCES**

**CC: A J NYAMBI, MP**  
**HOUSE CHAIRPERSON: COMMITTEES AND**  
**INTERGOVERNMENTAL RELATIONS AND CO-OPERATIVE**  
**GOVERNMENT**

**FROM: ADV M E PHINDELA**  
**ACTING DEPUTY SECRETARY: CORE BUSINESS**

**DATE: 16 JANUARY 2017**

**RE: NOTICE OF INTERVENTION ISSUED IN TERMS OF SECTION**  
**139(5)(a) OF THE CONSTITUTION, 1996 TO KANNALAND LOCAL**  
**MUNICIPALITY, WESTERN CAPE**

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**1. Introduction**

1.1 We refer to the Notice submitted in terms of section 139(6)(b) of the Constitution, 1996, wherein the Provincial Minister for Local Government, Environmental Affairs and Development Planning in the Western Cape Province informs the NCOP that the Provincial Executive resolved on 7 December 2016, to invoke the provisions of section 139(5)(a) of the Constitution in the above-mentioned Municipality.

**2. Legislative requirement**

2.1 Section 139(5)(a) of the Constitution provides that if a municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of

stakeholders, would develop and implement the targeted support package aiming at addressing the immediate governance, operational and technical needs of the Municipality.

#### 4. Advice

- 4.1 It is noted that the Notice does not comply with the procedural requirements of section 139(6)(b) of the Constitution as it was received by the NCOP on 21 December 2016, that is 14 days after the intervention began.
- 4.2 Nonetheless, we advise that the Notice be referred to the Select Committee on Co-operative Governance and Traditional Affairs and tabled in the ATC for consideration and report in accordance with Rule 101.
- 4.3 Further, that the Select Committee be advised of this procedural flaw and the fact that the intervention is as the result of the resolution by the Municipality admitting its inability to meet its obligations and financial commitments in terms of section 139(5).
- 4.4 In the event that the Chairperson is in agreement with our proposal outlined above, we have prepared letters to the Provincial Minister, the Chairperson of the Select Committee and the Clerk of Papers for signature.

Thank you



**ADV. M E PHINDELA**

**ACTING DEPUTY SECRETARY: CORE BUSINESS**