

SPECIAL COUNCIL MEETING
AGENDA
10 SEPTEMBER 2026



Knysna

Municipality • Munisipaliteit • uMasipala
INCLUSIVE. INNOVATIVE. INSPIRED.

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Notice is hereby given, in terms of Section 19(b) of the Local Government: Municipal Systems Act, 32 of 2000 as amended, that a **SPECIAL MEETING** of the **MUNICIPAL COUNCIL** of Knysna Municipality will be held in the Council Chamber on **THURSDAY, 10 SEPTEMBER 2026** at **10:00** to consider the business set forth in the attached agenda.

Kennis geskied hiermee as gevolg van Artikel 19(b) van die Plaaslike Regering : Munisipale Stelsels Wet, 32 van 2000, dat 'n **SPESIALE VERGADERING** van die **MUNISIPALE RAAD** van Knysna Munisipaliteit in die Raadsaal op **DONDERDAG, 10 SEPTEMBER 2026** om **10:00** gehou sal word ten einde sake soos uiteengesit in die aangehegte agenda te oorweeg.

Ibhunga lika**MASIPALA** waseKnysna lazisa ngomthetho okwisolotya 19(b) wenkqubo mqaqo olawula oMasipala, 32 of 2000, njengoko utshintshiwe, **NGENTLANGANISO EKHETHEKILEYO** ye**BHUNGA** lika**MASIPALA** waseKnysna eyakubanjelwa ku Council Chamber **NGOLWESINE, NGOMHLA WE 10 EYOMSINTSI 2026** ngentsimbi ye **10:00** umba iyakuba lushishino oluchazwe kwi-agenda.

CLLR M WILLEMSE

The Speaker

Die Speaker

Usomlomo

MR B M NGUBO

Acting Municipal Manager

Waarnemende Munisipale Bestuurder

Mphathi kaMasipala

Date : 9 September 2026

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3. **ATTENDANCE OF MEMBERS**
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4. **NOTING OF THE PROVISIONS OF CODE OF CONDUCT FOR COUNCILLORS
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5. **DISCLOSURE OF INTERESTS BY COUNCILLORS**

6. **NEW MATTERS SUBMITTED BY THE ACTING MUNICIPAL MANAGER**

6.1

SC01/09/26 REPORT: ON THE LEGAL PROCEEDINGS: URGENT APPLICATION AND SUBSEQUENT APPEAL OF MR BOY NGUBO AGAINST THE HIGH COURT ORDER UNDER CASE NUMBER:2026-196199

REPORT FROM THE ACTING DIRECTOR: CORPORATE SERVICES

PURPOSE OF THE REPORT

To apprise Council of the urgent application instituted by Mr Boy Ngubo, in the High Court of South Africa (Western Cape Division) under Case Number: 2026-210434, the outcome thereof and the subsequent application for leave to appeal filed by Mr Ngubo against the order granted under Case Number; 2026-196199. A copy of the urgent application is attached hereto, marked **A**.

BACKGROUND AND LEGAL FRAMEWORK

Council at a Special Council meeting held on 31 August 2026 resolved by majority as follows:

- (a)
- (b)
- (c)
- (d)

- (e) *That Council resolved that the MEC's decision dated 27 August 2026 refusing concurrence be taken on review, and that the Municipality be authorized, through its delegated officials in terms of Council's System of Delegations, to take all necessary steps to institute such proceedings and to seek urgent interim and/or ancillary relief as may be legally necessary, including, to the extent required as a consequence of the subsequent developments recorded above, appropriate relief concerning the operation and effect of the order of the Western Cape High Court dated 20 August 2026;*
- (f) *That the Municipality be authorized, through its delegated officials in terms of Council's System of Delegations, to appoint suitably qualified legal representatives for purposes of the proceedings contemplated in paragraph (e) above, and that such legal representatives obtain the complete record relevant to the MEC's decision, including but not limited to when the MEC obtained the BCHC Investigation Report, the internal Bitou Municipality memorandum, and the circumstances surrounding the disclosure of the Report and any waiver of privilege attached thereto;*
- (g) *That Council records that its decision to institute review proceedings does not constitute an acceptance or rejection of the allegations or conclusions contained in the BCHC Investigation Report and the internal Bitou Municipality memorandum and that Mr Ngubo be afforded seven (7) days to submit a comprehensive written response thereto, together with such supporting documentation as may be relevant, whereafter the Report and his response shall be placed before Council for proper consideration."*

Subsequent to the above decision of Council to institute urgent review proceedings, Mr Ngubo instituted urgent legal review proceedings in his personal capacity and after obtaining legal advice from Mosdell Pama & Cox Attorneys, it was decided that due the fact that Council's resolution to institute legal proceedings to review the decision of the MEC to refuse concurrence and the urgent review proceedings instituted by Mr Ngubo, the subject matter is in respect of the same administrative decision and that it would be advisable to rather support the application of Mr Ngubo then to institute separate legal proceedings on the same subject matter. The Executive Mayor deposed of a supporting affidavit in the application of Mr Ngubo, a copy of the affidavit is attached hereto, marked **B**.

The MEC opposed the urgent review application instituted by Mr Ngubo and also filed a counter application, a copy of the same is attached hereto, marked **C**. The matter was heard on 2 September 2026 and application instituted by Mr Ngubo was struck from the roll with costs for lack of urgency on 4 September 2026. A Copy of the order is attached hereto, marked **D**.

On or about 7 September 2026, Mr Ngubo filed a Notice of Application for Leave to Appeal the order granted on 20 August 2026. A copy of the notice is attached herewith, marked **E**. The filing of the application for leave to appeal automatically suspends the operation and execution of the High Court order granted on 20 August 2026. In terms of the Section 18(1) of the Superior Courts Act 10 of 2013, the default position is that once a party lodges an application for leave to appeal, the initial court order is placed on hold until the application or subsequent appeal is officially decided.

Consequently, the High Court order granted against or involving Mr Ngubo on 20 August 2026 cannot be enforced or executed by either party while the appeal process is underway.

RECOMMENDATION

- [a] That Council takes note of the contents of the report regarding the urgent application and the subsequent order under Case Number: 2026-210434.
- [b] That Council notes the Application for Leave to Appeal filed by Mr Ngubo against the High Court order dated 20 August 2026.

APPENDIX / ADDENDUM

Annexure A: Urgent Application to Review instituted by Mr Ngubo.
Annexure B: Supporting Affidavit of the Executive Mayor.
Annexure C: MEC's Opposing Papers and Counter Application.
Annexure D: High Court Order delivered on 4 September 2026.
Annexure E: Application for Leave to Appeal

File Number: 9/1/2/14

Execution: Acting Director: Corporate Services

A

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

CASE NO: 2026 _____

In the matter between:

BOY MANQOBA NGUBO

Applicant

And

**THE MEMBER OF THE EXECUTIVE COUNCIL FOR
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING, WESTERN CAPE**

First Respondent

KNYSNA LOCAL MUNICIPALITY

Second Respondent

BITOU LOCAL MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCHC)**

Fourth Respondent

**NOTICE OF MOTION:
IN SUPPORT OF THE URGENT APPLICATION AND REVIEW**

BE PLEASED TO TAKE NOTICE THAT, subject to allocation by the Registrar and Judge's directions the Applicant intends to make an application to the above Honourable Court at 10h00 on **Tuesday 2 September 2026** or so soon as the matter may be heard for an order in the following terms: -

1. Dispensing with the forms, service and time periods prescribed by the Uniform Rules of Court and directing that Part A be heard as one of urgency in terms of Rule 6(12).
2. The operation and effect of paragraphs 1 and 2 of the order granted by this Honourable Court on 20 August 2026 under **case number 2026-196199** are hereby suspended and stayed in terms of Rule 45A of the Uniform Rules of Court, read with section 173 of the Constitution of the Republic of South Africa, 1996.
3. The operation, implementation and effect of the decision taken by the First Respondent on or about 27 August 2026, refusing and/or declining to provide concurrence in terms of section 54A(2A)(b) of the Local Government: Municipal Systems Act 32 of 2000 to the Second Respondent's decision to appoint the Applicant as Acting Municipal Manager for a further and final period of three months ("the MEC decision"), are hereby suspended pending the final determination of Part B.
4. The First, Second and Third Respondents, and any person acting through or under their authority or direction, are interdicted and restrained from taking any step to implement or give effect to the MEC decision pending the final determination of Part B.
5. The status quo prevailing immediately prior to 27 August 2026 in relation to the Applicant's appointment and performance of the functions of Acting Municipal

Manager of the Second Respondent, including his employment contract concluded with the Second Respondent on 7 August 2026 dated shall be preserved pending the final determination of Part B.

6. Any Respondent opposing Part A is ordered to pay the costs thereof, jointly and severally with any other Respondent opposing Part A, the one paying the others to be absolved, including the costs consequent upon the employment of two counsel, where so employed.

7. Alternatively, to paragraph 6 above, the costs of Part A shall be costs in Part B.

BE PLEASED TO TAKE NOTICE FURTHER THAT the affidavit (together with annexures thereto) of **BOY MANQOBA NGUBO** will be used in support of this application.

BE PLEASED TO TAKE NOTICE FURTHER THAT in terms of uniform rule 6 (5)(b) the Applicant has appointed **HDRS ATTORNEYS INC**, situated at the address set out below (including the email addresses), as an address at which he will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER THAT the Applicant is amenable to receive service of process by electronic mail at the email address provided herein below.

TAKE NOTICE FURTHER that if you wish to oppose the relief sought above:

- (a) In accordance with uniform rule 6(5)(d)(i) you are required to notify the Applicant's attorney of record of your intention to oppose by not later than **08h00 on 1 SEPTEMBER 2026**, and to appoint in such notification an address (including an email address/es), referred to in Rule 6(5)(b) of the rules of this Court, at which you will accept service of all notices and process in these proceedings; and
- (b) In accordance with uniform rule 6(5)(d)(ii) you are required to file your answering affidavit (if any) on or before **08H00 on 1 SEPTEMBER 2026**, if any, and further that such respondent is required.

TAKE NOTICE FURTHER that the applicants will, if so advised, thereafter file their replying affidavit(s).

KINDLY place the matter on the roll accordingly for hearing on **2 SEPTEMBER 2026**

PART B - REVIEW AND SETTING ASIDE

8. In terms of rule 53 of the Uniform Rules of Court, the First and Fourth Respondents are hereby called upon to show cause why such decision or proceedings should not be reviewed and corrected or set aside, and
9. The First Respondent's decision taken on or about 27 August 2026 refusing to provide concurrence to the Second Respondent's decision appointing the Applicant as the Acting Municipal Manager of the Second Respondent for the period commencing 7 August 2026 until 6 November 2026 is hereby declared

unlawful and constitutionally invalid in terms of section 172(1)(a) of the Constitution.

10. The First Respondent's decision taken on or about 27 August 2026 refusing to provide concurrence to the Second Respondent's decision appointing the Applicant as the Municipal Manager of the First Respondent for the period commencing 7 August 2026 until 6 November 2026 is hereby reviewed and set aside in terms of section 172(1)(b) of the Constitution.
11. The preparation, finalisation, adoption and/or issuing of the BCHC report, together with the adverse findings, conclusions and recommendations contained therein concerning the Applicant, are hereby declared unlawful, constitutionally invalid, and accordingly reviewed and set aside in terms of sections 6 and 8 of the Promotion of Administrative Justice Act 3 of 2000 ("PAJA").
12. In the alternative to paragraph 11 above, and only in the event that this Honourable Court finds that the preparation, finalisation and/or issuing of the BCHC report does not constitute administrative action as contemplated in PAJA, the adverse findings, conclusions and recommendations contained therein concerning the Applicant are declared unlawful, constitutionally invalid, and therefore reviewed and set aside in terms of the constitutional principle of legality.

13. Consequent upon the setting aside of the First Respondent's impugned decision, the application for concurrence is remitted to the First Respondent for reconsideration and determination afresh, within such period as this Honourable Court may direct.
14. Alternatively, to paragraphs 13, and in the event that this Honourable Court finds that exceptional circumstances exist rendering substitution appropriate, the First Respondent's decision is substituted with an order that the First Respondent's concurrence contemplated in section 54A(2A)(b) of the Local Government: Municipal Systems Act 32 of 2000 is granted in respect of the Second Respondent's decision of 7 August 2026 appointing the Applicant as Acting Municipal Manager.
15. That notwithstanding the outcome of the review application, It is declared that the written contract of employment concluded between the Applicant and the Second Respondent pursuant to the Applicant's appointment as Acting Municipal Manager on 7 August 2026 was not itself reviewed and set aside by the order granted by this Honourable Court on 20 August 2026 under case number 2026-196199 and remains intact and binding upon the contracting parties.
16. Any Respondent opposing Part B is ordered to pay the costs of the application, jointly and severally with any other opposing Respondent, the one paying the others to be absolved, including the costs consequent upon the employment of two counsel, where so employed.

17. Further and/or alternative relief is granted.

Rule 53 record

TAKE NOTICE FURTHER that, in terms of Uniform Rule 53(1)(b), the First and Fourth Respondents are called upon, within fifteen (15) days after receipt of this notice of motion, to:

- (I) Dispatch to the Registrar of this Honourable Court the complete record of the proceedings, decisions and administrative conduct sought to be reviewed and set aside, together with such reasons as the respondents are required or desire to give.
- (II) The record shall include all documents, correspondence, electronic records, internal referrals, memoranda, reports, notices, recommendations and decisions relating to:
 - (aa) the First Respondent's impugned decision taken on or about 27 August 2026;
 - (bb) the Fourth Respondent's investigation and dated 15 November 2024 titled "Investigation Report on Alleged Misconduct: Mr. Boy Ngubo";
- (III) Once the record and reasons have been dispatched to the Registrar, to notify the applicant in writing that they have done so.

Supplementation after receipt of the record

- (l) The applicant shall, within ten days after the record has been made available to it by the Registrar, be entitled, by delivery of a notice and supplementary affidavit, to amend, add to or vary the terms of this notice of motion and to supplement its founding affidavit.

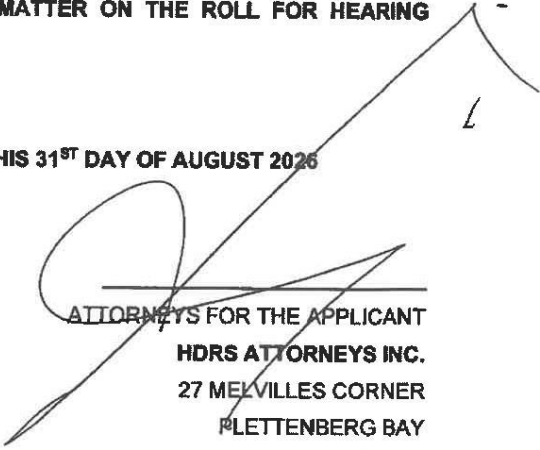
Opposition to Part B

- (l) **TAKE NOTICE FURTHER** that any respondent intending to oppose the relief sought in Part B shall:
 - (aa) Within fifteen days after receipt of this notice of motion, deliver a notice of intention to oppose and appoint an address contemplated in Uniform Rule 6(5)(b) at which such respondent will accept service of all notices and process in these proceedings.
 - (bb) Within thirty days after receipt of the supplementary affidavit and or amended notice of motion, deliver an answering affidavit.
 - (cc) The applicant shall thereafter deliver its replying affidavit within the period prescribed by the Uniform Rules of Court.

TAKE NOTICE FURTHER that the grounds, facts and circumstances upon which the Applicant relies for the relief sought in Part B are contained in the founding affidavit of **BOY MANQOBA NGUBO**, together with its annexures, and may be supplemented after receipt of the Rule 53 record.

**KINDLY THEREFORE PLACE THE MATTER ON THE ROLL FOR HEARING
ACCORDINGLY.**

DATED IN PLETTENBERG BAY ON THIS 31ST DAY OF AUGUST 2026



ATTORNEYS FOR THE APPLICANT

HDRS ATTORNEYS INC.

27 MELVILLES CORNER

PLETTENBERG BAY

REF:W07700

EMAIL: fdp@hdrs.law.za

c/o REBELLO KARSTEN INC.

2ND FLOOR, 107 BREE STREET

CAPE TOWN

EMAIL: ryan@rkinc.co.za

TO: THE REGISTRAR
High Court
Western Cape Division
CAPE TOWN

**AND TO: THE MEMBER OF THE EXECUTIVE COUNCIL FOR
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING, WESTERN CAPE
THE FIRST RESPONDENT
STATE ATTORNEY
4TH FLOOR, 22 LONG STREET
CAPE TOWN**

EMAIL: mmotsilenyana@justice.gov.za
kbrinkhuys@justice.gov.za
cnewman@justice.gov.za
Anton.Bredell@westerncape.gov.za

AND TO: **KNYSNA LOCAL MUNICIPALITY**
SECOND RESPONDENT
c/o **THE EXECUTIVE MAYOR**
5 CLYDE STREET
KNYSNA
EMAIL: tmatika@knysna.gov.za
mm@knysna.gov.za

AND TO: **BITOU LOCAL MUNICIPALITY**
THIRD RESPONDENT
c/o **ACTING MUNICIPAL MANAGER**
2 SEWELL STREET
PLETTENBERG BAY
EMAIL: fwilliams@plett.gov.za
acroutz@plett.gov.za

AND TO: **BRADLEY CONRADIE HALTON CHEADLE**
ATTORNEYS
FOURTH RESPONDENT
G04, THE GATEHOUSE
CENTURTY WAY
CENTURY CITY
CAPE TOWN
EMAIL: info@bchc.co.za

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

CASE NO: 2026 _____

In the matter between:

BOY MANQOBA NGUBO

Applicant

And

**THE MEMBER OF THE EXECUTIVE COUNCIL FOR
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING, WESTERN CAPE**

First Respondent

KNYSNA LOCAL MUNICIPALITY

Second Respondent

BITOU LOCAL MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCYC)**

Fourth Respondent

CERTIFICATE OF URGENCY

I, the undersigned,

SIKUMBULE NTULI

1. Counsel for the Applicant, hereby certify that I have considered the papers in this application and am of the view that **Part A thereof is sufficiently urgent to warrant preferential enrolment and hearing in terms of Rule 6(12) of the Uniform Rules of Court**, for the reasons set out hereunder.
2. The application is brought in two parts. Part A seeks urgent interim relief, principally in terms of **Rule 45A of the Uniform Rules of Court**, staying and suspending the implementation of the court order handed down under case number 2026-196199 as well as the First respondent's decision taken on 27 August 2026 pending the determination of the review proceedings instituted in Part B.
3. The application further concerns two separate juristic acts, the first by the Second respondent relating to entering into an employment contract with the applicant which remains valid and subsists until 7 November 2026 unless terminated or set aside, as well as the First respondent's refusal to concur which was made or communicated on 27 August 2026 which also remains valid until set aside.
4. The aforementioned employment contract is not subject to any judicial challenge and therefore binding on the Second respondent, whilst the First respondent's decision is the subject of these proceedings.
5. The application therefore further concerns the position of Acting Municipal Manager (Accounting Officer) of the Second Respondent, Knysna Local Municipality, and arises immediately from a decision taken by the First Respondent on 27 August 2026 refusing concurrence under section 54A(2A)(b)

of the Local Government: Municipal Systems Act 32 of 2000 for the extension of the Applicant's acting appointment, which is sought to be stayed.

6. The urgency did not arise merely from the order granted by this Honourable Court on 20 August 2026 under case number 2026-196199. That order expressly contemplated a further decision-making process in terms of which the First Respondent was required to determine whether concurrence would be granted. The present urgent application would not have become necessary had concurrence been granted. The founding affidavit accordingly identifies the First Respondent's subsequent refusal as the event which crystallised the urgency.
7. The First Respondent's adverse decision was communicated to, alternatively received by, the Applicant only late on Friday, 28 August 2026. The Applicant thereafter instructed his legal representatives to institute the present proceedings as a matter of urgency. The urgency is accordingly not self-created.
8. Part A seeks essentially preservatory relief pending the determination of Part B. In particular, the Applicant seeks:
 - 8.1. a stay, under Uniform Rule 45A read with section 173 of the Constitution of the operation and effect of paragraphs 1 and 2 of the order granted on 20 August 2026;
 - 8.2. suspension of the operation, implementation and effect of the First Respondent's decision of 27 August 2026 pending Part B;

- 8.3. an interim interdict restraining implementation of that decision; and
- 8.4. preservation of the status quo prevailing immediately before 27 August 2026 concerning the Applicant's appointment and performance of the functions of Acting Municipal Manager, including his employment contract concluded with the Second Respondent on 7 August 2026.
9. The Rule 45A relief is itself urgent. The order of 20 August 2026 postponed the prospective invalidity of the Council's appointment decision until 27 August 2026 specifically to permit the contemplated concurrence process to occur. The legality of the outcome of that very process is now the subject of Part B. Unless the position is preserved pending review, the Applicant immediately ceases exercising the functions of Acting Municipal Manager whilst the lawful and legal incumbent in the position, another person may assume the office, the administrative status quo will change, and the fixed contractual period will continue to run while Part B remains pending.
10. The Applicant has a fixed-term written contract terminating on 6 November 2026. Time lost under that contract cannot subsequently be restored. A review determined after, or close to, the expiry of that period may therefore be successful in law but substantially ineffectual in fact.
11. The urgency extends beyond the Applicant's personal employment interests. The office concerned is the principal administrative office of Knysna Municipality. Unless interim relief is granted, another person may be appointed or employed to exercise the functions of Municipal Manager while the legality

of the First Respondent's refusal and the consequences of the Applicant's subsisting contract remain unresolved.

12. This creates a material risk of administrative uncertainty. Decisions taken by another incumbent may themselves become vulnerable to challenge concerning the lawfulness of that person's appointment or authority. The Municipality may additionally be exposed to duplicated remuneration, further litigation and disruption of its senior administrative leadership while the substantive Municipal Manager remains suspended and the Applicant's contract continues to run.
13. The review in Part B is, on the papers, substantial and bona fide. Amongst other matters, it is alleged that the First Respondent relied materially upon serious adverse findings contained in an investigative report produced without the Applicant having been interviewed or afforded an opportunity to answer the allegations; that this procedural complaint was expressly brought to the First Respondent's attention before his decision; and that no reasonable opportunity was thereafter afforded to cure that procedural deficit.
14. I further certify that the interim relief sought is directed at preserving rather than creating a state of affairs. The Applicant has already served as Acting Municipal Manager, and the Council papers relied upon in the founding affidavit identify continuity and stability in the municipal administration as material considerations.
15. There is no satisfactory alternative remedy capable of preserving the subject matter of the review. A subsequent damages claim cannot restore time in public

office, preserve continuity in municipal administration, or prevent Part B from becoming moot or practically academic through the expiry of the Applicant's fixed acting period.

16. I am advised that the ultimate consideration for purposes of urgency is whether the Applicant will be afforded substantial redress in due course if the matter is required to proceed in the ordinary course.
17. In my view, the Applicant will not obtain such substantial redress. If Part A is not determined urgently:
 - 17.1. a substantial portion, if not the entirety, of the Applicant's fixed-term appointment may expire before effective relief can be obtained;
 - 17.2. another person may in the interim be appointed or employed to occupy the office;
 - 17.3. decisions taken by such person may become susceptible to further legal challenge;
 - 17.4. the Municipality may incur duplicated remuneration and associated expenditure;
 - 17.5. the administrative status quo will have materially altered before the legality of the impugned decision is determined; and
 - 17.6. the relief sought in Part B may become academic or practically ineffectual.

18. The prejudice which Part A seeks to avert cannot adequately be repaired retrospectively. The relief sought does not finally determine the review. Its purpose is to preserve the position for the limited period necessary to enable this Honourable Court to determine the lawfulness of the impugned conduct before the dispute is overtaken by events.
19. In all the circumstances, I certify that the matter warrants urgent enrolment and that the abridgement of the ordinary forms and time periods contemplated in Rule 6(12) is justified.
20. I accordingly respectfully certify that Part A should be enrolled and heard as a matter of urgency on such date and upon such directions as this Honourable Court may determine.
21. In the notice of motion the following time periods have been proposed which I am of the view are just and equitable in view of the extreme urgency of this matter:
 - 21.1. The Registrar of the above Honourable Court enrolls the matter for hearing on Wednesday 2 September 2026 at 10h00.
 - 21.2. The respondents file their notices to oppose as well as their answering affidavits no later than 08h00 on Tuesday 1 September 2026;
 - 21.3. The Applicant files his replying affidavit on or before 12h00 on Tuesday 1 September 2026;

- 21.4. The heads of argument are filed by the parties no later than 16h00 on Tuesday 1 September 2026.

DATED at KUGOMPO on this 31st day of AUGUST 2026.

Adv S. Ntuli

Member of the Bhisho Society of Advocates

7 Kew Road

KuGompo

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

CASE NO: 2026 _____

In the matter between:

BOY MANQOBA NGUBO

Applicant

And

**THE MEMBER OF THE EXECUTIVE COUNCIL FOR
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING, WESTERN CAPE**

First Respondent

KNYSNA LOCAL MUNICIPALITY

Second Respondent

BITOU LOCAL MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCYC)**

Fourth Respondent

FOUNDING AFFIDAVIT:

IN SUPPORT OF THE URGENT AND REVIEW APPLICATION

A. OATH AND AFFIRMATION

1 


I, the undersigned,

BOY MANQOBA NGUBO

do hereby make oath and state that:

1. I am an adult male and presently serve, alternatively served until the events giving rise to these proceedings, as the Acting Municipal Manager of the Second Respondent, Knysna Local Municipality ("Knysna Municipality"). I am the Applicant in these proceedings.
2. The facts contained herein are, unless the context indicates otherwise, within my personal knowledge and are true and correct.
3. Where I deal with matters of law, I do so on the advice of my legal representatives, which advice I respectfully accept as correct. I approach this Honourable Court for urgent interim relief in Part A, pending the determination of the review and declaratory relief sought in Part B. At the centre of this application are three interconnected matters:
 - 3.1. the order granted by this Honourable Court on 20 August 2026 under case number 2026-196199;
 - 3.2. the subsequent decision of the First Respondent, on or about 27 August 2026, refusing to provide his concurrence in terms of section 54A(2A)(b) of the Local Government: Municipal Systems Act 32 of 2000 ("the Systems Act"); and
 - 3.3. an investigative report prepared by the Fourth Respondent on 15 November 2024, containing serious adverse findings and recommendations concerning

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me, notwithstanding that I was never interviewed or afforded any opportunity to answer the allegations before those findings were made.

4. I was cited as the Third Respondent in the earlier proceedings which culminated in the order of 20 August 2026. I elected to abide the decision of this Honourable Court in those proceedings. I disclose that fact at the outset because I do not seek to disguise the procedural history or to reopen the dispute which I elected not to oppose.
5. The present proceedings are founded materially upon what happened after my election to abide and, more particularly, upon the fresh concurrence process expressly contemplated by the Court order itself.
6. During that fresh process, highly prejudicial material which had never previously been disclosed to me was brought into consideration.
7. The material included a completed investigative report containing findings of serious misconduct and recommendations that disciplinary and criminal steps be taken against me.
8. I had never been interviewed during the investigation. I had never been given the allegations to answer. I had never been furnished with the evidential material upon which the investigators intended to rely.
9. I had never been afforded an opportunity to make representations before the findings were made. The material thereafter became relevant to a statutory

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decision directly determining whether I could continue serving as Acting Municipal Manager.

10. I contend that neither the original investigative process nor the subsequent concurrence process afforded me the procedural protection which the Constitution and law require.
11. In Part A I consequently seek a temporary stay under Rule 45A, read with section 173 of the Constitution, together with related preservatory relief.
12. In Part B I seek:
 - 12.1. the review and setting aside, under the principle of legality, of the First Respondent's refusal of concurrence;
 - 12.2. primarily under PAJA, the review and setting aside of the adverse BCHC process, findings and recommendations;
 - 12.3. alternatively, review thereof under legality;
 - 12.4. consequential remittal or, in appropriate circumstances, substitution; and
 - 12.5. a declarator concerning my written employment contract.
13. The Notice of Motion is incorporated herein by reference.

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B. THE PARTIES

14. I have already identified myself and affirm that as the Applicant I am instituting this application pursuant to my contractual and constitutional rights which have been violated by the First and Fourth respondents.
15. The First Respondent is the Member of the Executive Council responsible for Local Government, Environmental Affairs and Development Planning in the Western Cape Province, cited in his official capacity.
16. He is the statutory functionary whose concurrence is contemplated by section 54A(2A)(b) of the Systems Act. The Second Respondent is Knysna Local Municipality, a municipality established in accordance with the Constitution and applicable local-government legislation.
17. Knysna Municipality appointed and employed me as Acting Municipal Manager. The Third Respondent is Bitou Local Municipality. I was previously employed by Bitou Municipality.
18. The Fourth Respondent is Bradley Conradie Halton Cheadle Attorneys ("BCHC"), the firm instructed to conduct the investigation which culminated in the report dated 15 November 2024.
19. Bitou Municipality and BCHC are cited because the investigation, the resultant report and the public-law consequences which subsequently flowed from it are directly implicated in Part B.

D. JURISDICTION

20. This Honourable Court has jurisdiction. Knysna Municipality and Bitou Municipality fall within the territorial jurisdiction of this Division. The First Respondent exercises the material statutory powers within the Western Cape Province.
21. The impugned concurrence decision relates directly to the administration of Knysna Municipality and produces its consequences within this Division. Furthermore, the order which is sought temporarily to be stayed was granted by this Court.

E. THE STATUTORY FRAMEWORK

22. Section 54A of the Systems Act regulates the appointment of municipal managers and acting municipal managers.
23. Section 54A(2A)(a) permits a municipal council to appoint an acting municipal manager for a period not exceeding three months.
24. In terms of section 54A(2A)(b), where special circumstances and good cause exist, a council may apply in writing to the MEC for local government to extend the acting appointment for a further period not exceeding three months. The distinction is important.
25. My initial acting appointment did not require the concurrence of the First Respondent. My continued appointment beyond the initial three-month period required the statutory concurrence contemplated by section 54A(2A)(b).

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26. The First Respondent's determination of that issue constitutes the exercise of public power. That power is constrained by the Constitution and the principle of legality and must, amongst other things, be exercised lawfully and rationally.

E1. MY INITIAL APPOINTMENT

27. On 30 April 2026, the Municipal Council of Knysna Municipality resolved to appoint me as Acting Municipal Manager.
28. The appointment took effect on 6 May 2026 and was to endure for a period of three months, alternatively until the finalisation of the matter concerning the substantive Municipal Manager, Dr LH Mapholoba, whichever occurred first.
29. A copy of the relevant Council resolution and supporting appointment documentation is annexed hereto marked "BMN1".
30. The fact and terms of the appointment are also reflected in Council's subsequent records, which record that Council resolved on 30 April 2026 to appoint me with effect from 6 May 2026.
31. At that time Dr Mapholoba was suspended and the Municipality accordingly required an Acting Municipal Manager. Knysna Municipality notified the First Respondent of my appointment.

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E2. THE MEC'S LETTER OF 21 MAY 2026

32. On 21 May 2026, the First Respondent responded to notification of my appointment. A copy of that correspondence is annexed hereto marked "BMN2". The letter is important for two reasons.
33. First, the First Respondent expressly accepted that I met the prescribed educational qualifications, competencies and work-related experience required for appointment as Acting Municipal Manager.
34. Secondly, the First Respondent referred to circumstances concerning my previous employment at Bitou Municipality, namely my previous suspension, my resignation before disciplinary proceedings and the existence of criminal proceedings under CAS 148/11/2024 said to remain under investigation by the HAWKS.
35. These two features of the letter are recorded in the subsequent municipal documentation. I draw attention to this because my case is not that Council or I were unaware that concerns had been raised arising from my previous employment at Bitou. The existence of those allegations was known.
36. What was not known to me was that BCHC had completed an investigative process and had already purported to make substantive adverse findings and recommendations against me. Those are very different things.
37. I must also point out that the CAS number by the Hawks referred to in the MEC's letter refers only to the laying of a complaint, and no decision has been taken

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by the Hawks that I have any case to answer. It would therefore be unfair that I must be judged based on a case opened against me by my accuser and not based on any independent decision on whether I have a case to answer by the Hawks or on my guilt by a court of law.

38. I further submit that to the extent that the First respondent's decision is based on information that he was privy to when he did not object to my initial appointment, such a decision is surely irrational.
39. I say so because, if I was competent to act in the position then and nothing has changed, surely I am still fit and competent to act on the renewed basis.

E3 COUNCIL'S DECISION OF 14 JULY 2026

40. As the expiry of my initial acting period approached, Council considered the continuing need for an Acting Municipal Manager. Dr Mapholoba remained suspended and the underlying proceedings concerning him had not been finalised.
41. On 14 July 2026, Council resolved to extend my acting appointment for a further period of three months and to seek the concurrence of the First Respondent under section 54A(2A)(b).
42. The relevant resolution and application are annexed hereto marked "**BMN3**". Council's later records expressly confirm that on 14 July 2026 it resolved to extend my acting appointment and seek concurrence.

E4. THE MEC'S LETTER OF 29 JULY 2026

43. On 29 July 2026, the First Respondent acknowledged the application for concurrence. A copy of that correspondence is annexed hereto marked "BMN4".
44. The First Respondent requested further information before completing his assessment. In particular, he requested:
- 44.1. the report which had served before Council;
 - 44.2. confirmation that Council had considered his correspondence of 21 May 2026; and
 - 44.3. confirmation of enquiries made with Bitou Municipality and/or the investigating officer concerning CAS 148/11/2024.
45. Those requests are expressly recorded in the Council material. The importance of BMN4 is that it establishes the issue which the First Respondent regarded as outstanding at that stage.
46. The subject was the existence and status of a criminal investigation. There was still no disclosure to me of the BCHC report. As explained above, both the First and Second respondents were aware of the criminal complaint at the time of my initial appointment.

E5. THE COUNCIL PROCEEDINGS OF 4 AUGUST 2026

47. Council considered the First Respondent's request at a Special Council Meeting on 4 August 2026. The relevant minutes are annexed hereto marked "BMN5".
48. Council expressly noted the criminal proceedings under CAS 148/11/2024 and authorised the Executive Mayor to make enquiries with Bitou Municipality and the investigating officer regarding their status.
49. Council further confirmed that it had considered the First Respondent's 21 May letter before adopting its 14 July decision. It is therefore important that this Court appreciate that neither Council nor I attempted to conceal the allegations concerning Bitou.
50. Council actively resolved to obtain further information concerning them. Council was also concerned with continuity in the municipal administration, including the ongoing CFO recruitment process. Those considerations appear expressly from BMN5.

E6. THE MEC'S LETTER OF 5 AUGUST 2026

51. On 5 August 2026, the First Respondent addressed further correspondence to Knysna Municipality. A copy is annexed marked "BMN6".
52. In that letter the First Respondent expressed the view that, absent concurrence under section 54A(2A)(b), it might not be legally permissible for me to continue acting after expiry of the initial period.

53. The First Respondent nevertheless indicated that he awaited Council's informed decision following the further enquiries and deliberations.

54. That correspondence therefore did not finally determine the concurrence application.

E7. THE 7 AUGUST 2026 DECISION

55. Council thereafter again considered the position. At a Special Council Meeting on 7 August 2026, Council resolved:

55.1. to ratify an interim acting arrangement for 6 and 7 August;

55.2. to appoint me as Acting Municipal Manager for a period of three months;
and

55.3. to authorise the Municipality to oppose or defend proceedings arising from the First Respondent's failure to determine the appointment.

56. A copy of the relevant Council resolution is annexed marked "BMN7". The resolution is also reproduced in Council's subsequent litigation report.

E8. THE WRITTEN EMPLOYMENT CONTRACT

57. Following Council's decision, Knysna Municipality and I concluded a written contract of employment on 7 August 2026. A copy of the signed contract is annexed hereto marked "BMN8".

58. In terms of the contract I was appointed as Acting Municipal Manager for the fixed period terminating on 6 November 2026. BMN8 assumes particular importance because it constitutes a separate written juristic act concluded between Knysna Municipality and me.
59. As developed later, the earlier litigation challenged Council's appointment decision but did not seek an order specifically reviewing and setting aside BMN8.

E9. THE EARLIER URGENT PROCEEDINGS

60. On or about 17 August 2026, the First Respondent instituted urgent proceedings in this Court under case number 2026-196199. A copy of the Notice of Motion instituting those proceedings is annexed hereto marked "BMN9".
61. I expressly annex BMN9 because it demonstrates the relief which the First Respondent elected to seek from this Court. BMN9 did not seek an order reviewing and setting aside my written employment contract, BMN8. Knysna Municipality opposed the application.
62. The contemporaneous Council documentation records that attorneys had been appointed, a notice of opposition filed, consultations held and answering affidavits and a counter-application prepared.

E9. MY NOTICE TO ABIDE

63. I was cited as the Third Respondent in those proceedings. Having obtained legal advice, I elected not to oppose the relief and filed a Notice to Abide dated 19 August 2026. I annex that notice myself, openly and without reservation, marked "BMN10".
64. I do so because I anticipate that the Respondents may seek to rely upon my election to abide as an answer to the present proceedings. BMN10 records my election to abide the decision of the Court.
65. It did not constitute an undertaking that I would never challenge future exercises of public power concerning me. It could not amount to acquiescence in a decision which had not yet been taken. It equally could not constitute acquiescence in reliance upon evidence and an investigative report which had not yet been disclosed to me.
66. Furthermore, my notice was filed on the express basis recorded therein concerning indemnification of my legal costs by Knysna Municipality.
67. Most importantly, my position was one of non-opposition, not of affirmatively joining in or consenting to every aspect of the agreement subsequently reached between the actively litigating parties.

E10. THE ORDER OF 20 AUGUST 2026

68. On 20 August 2026, this Honourable Court granted an order under case number 2026-196199. A copy of the order is annexed hereto marked "BMN11".
69. BMN11 expressly records that the order was made:

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"By agreement between the parties (third respondent not opposing)".

70. That formulation accurately reflects my position. Paragraph 1 of BMN11 declared Council's decision of 7 August 2026 unlawful and invalid with effect from 27 August 2026. The invalidity was therefore expressly prospective.
71. Paragraph 2 protected the validity of decisions I had taken as Acting Municipal Manager before 27 August 2026, subject to challenges based upon grounds other than the validity of my appointment.
72. Importantly, the order then regulated what was to happen between 20 and 27 August 2026. The First Respondent was to decide, by close of business on 27 August 2026, whether or not to provide concurrence.
73. The Respondents were permitted to place further motivation or information before him by close of business on 24 August 2026. The First Respondent was required to provide reasons with his ultimate decision. BMN11 accordingly created a fresh decision-making process.
74. It is that process, and what occurred during it, which generated the principal cause of action in the present proceedings. That being the irrational and unconstitutional decision ultimately taken by the First respondent on 27 August 2026.

E11. THE POST-ORDER CONCURRENCE MOTIVATION

75. Pursuant to BMN11, Knysna Municipality prepared and submitted a detailed motivation to the First Respondent. A copy is annexed hereto marked "BMN12".
76. BMN12 expressly records that it was submitted pursuant to paragraphs 4 and 5 of the Court order and sought concurrence in Council's 7 August decision. BMN12 identified the special circumstances and good cause relied upon by Council. These included:
- 76.1. the continuing suspension of the substantive Municipal Manager;
 - 76.2. administrative stability and continuity;
 - 76.3. the progress achieved during my initial acting period;
 - 76.4. ongoing financial and governance processes;
 - 76.5. continuity in the Municipality's engagement with the SIU and HAWKS;
 - 76.5. the CFO recruitment process; and
 - 76.6. the need to avoid disruption in the municipal administration.
77. Council regarded administrative continuity as particularly important while Dr Mapholoba remained suspended. The earlier Council material similarly records the need to maintain uninterrupted executive leadership and avoid unnecessary administrative disruption.

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78. BMN12 furthermore recorded that the First Respondent had already confirmed that I satisfied the prescribed educational, competency and experience requirements.

E12. THE INTRODUCTION OF THE BCHC MATERIAL ON 25 AUGUST 2026

79. After the time provided in BMN11 for the submission of the Respondents' further motivation had expired, a materially different development occurred.
80. On 25 August 2026, the First Respondent addressed correspondence referring to and introducing material from Bitou Municipality, including the BCHC report and an internal Bitou memorandum.
81. A copy of that communication, together with the material transmitted therewith insofar as appropriate, is annexed marked "BMN13".
82. The First Respondent required an extraordinarily expedited response to material bearing directly upon my alleged misconduct and integrity. The importance of BMN13 cannot be overstated. Until then, the known concern had principally been the existence and status of the complaint filed with the HAWKS.
83. BMN13 introduced into the statutory decision-making process a completed private investigative report containing substantive findings against me. The difference between those two things is fundamental.
84. The existence of an investigation represents an unresolved allegation. The BCHC report purported to make findings and recommendations of wrongdoing.

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E13. THE BCHC REPORT

85. The report to which the First Respondent referred had been prepared by BCHC on 15 November 2024. I annex the complete report marked "BMN14". BMN14 is titled "Investigation Report on Alleged Misconduct: Mr Boy Ngubo". It arose from an investigation undertaken on behalf of Bitou Municipality.
86. BMN14 contains extremely serious findings concerning my alleged conduct in transactions involving, amongst others, GG&G Consulting Engineers and ZWH Projects. The report concludes or recommends, amongst other matters, that:
- 86.1. procurement requirements were not properly observed in certain transactions;
- 86.2. expenditure was irregular, unauthorised and/or fruitless and wasteful;
- 86.3. I should face disciplinary action for serious misconduct;
- 86.4. I should be reported to the HAWKS; and
- 86.5. criminal and civil action should be pursued in respect of certain matters.
87. Those conclusions were self-evidently capable of profoundly prejudicing my career, reputation and suitability for senior municipal office. Yet I was never interviewed by BCHC.
88. BMN14 identifies other officials who were interviewed. I am not among them. I was never invited to attend an interview. The allegations were never put to me.

I was never furnished with the underlying evidence for comment. I was never afforded a right to make written representations. I was never furnished with a provisional or draft report. I was never afforded any opportunity to correct factual errors, explain relevant documents or contextualise any of the decisions attributed to me.

89. BCHC therefore made serious adverse findings about me without hearing me at all.

E14. THE FELIX LOTTER MEMORANDUM

90. Part of the Bitou material relevant to the investigation is a memorandum authored by Mr Felix Lotter dated 9 September 2024. A copy is annexed marked "BMN15".
91. BMN15 concerns alleged irregular or unauthorised expenditure and possible fraudulent transactions involving GG&G Consulting Engineers. It is relevant because it appears amongst the source material which ultimately fed into the BCHC investigation and its conclusions.
92. BMN15 must, however, be distinguished from BMN14. BMN15 is an internal memorandum. BMN14 is the later investigative report which purported to draw conclusions concerning me.
93. I make this distinction because both documents subsequently became relevant to the material relied upon against me, but their provenance and evidential character are different.

E15. MY ATTORNEYS' IMMEDIATE RESPONSE

94. My attorneys, HDRS Attorneys Incorporated, responded to the First Respondent on 26 August 2026. Their letter is annexed hereto marked "BMN16".
95. BMN16 is of considerable evidential importance because it predates the impugned decision and records my complaint contemporaneously. My attorneys expressly recorded that I had never seen the documents or the allegations contained therein at any prior time.
96. They further recorded that during the investigation I had not been contacted by BCHC, nor approached for interview or comment. The objection to the procedure is therefore not a complaint manufactured after the adverse concurrence decision was received.
97. It was expressly raised with the First Respondent before he made his decision. My attorneys also made clear that the material carried serious implications for my professional character and reputation. They reserved my rights.
98. I cannot fathom the reason why the First Respondent would could independently make the decision made on 27 August 2026 after being notified by that the information and reports relied upon to impugn my appointment were conducted in a clandestine manner whereby I was not notified of the existence of the investigation and outcome thereof.

99. Unless the First respondent provides a record of his decision it cannot be known whether same was taken for an ulterior purpose either than that for which the statutory power was conferred on him by section 54 of the Municipal Systems Act.
100. Unless, and until the full record underlying the First respondent's decision, same will forever remain suspicious and can never be freed from being tainted with unfairness, unlawfulness and bias.

E16. THE CRIMINAL-CHECK AND REFUTATION MATERIAL

101. The position concerning the alleged criminal investigation was itself the subject of further enquiries. Knysna Municipality addressed correspondence on 14 August 2026, refuting the suggestion that I was facing an active criminal case in the manner previously suggested. A copy of the relevant correspondence and supporting criminal-check material is annexed marked "BMN17".
102. The material before Council recorded that a Priority Criminal Check conducted on 11 August 2026 reflected an outcome of "Clear", with no previous convictions or case awaiting trial identified.
103. I do not rely on BMN17 to contend that the mere absence of a pending trial conclusively determines every allegation which Bitou or BCHC might make. I rely upon it for a more limited but important proposition.
104. By the time of the post-order concurrence process there was materially conflicting information concerning my alleged criminal exposure. That made it

all the more important that I be afforded a proper opportunity to answer the substantive BCHC allegations before they were treated adversely against me.

105. This is a simple act of complying with the rules of natural justice and could have removed any grey areas behind the First respondent's decision.

106. To be clear. As averred above, I have not been charged as an accused in any criminal proceedings pending before any competent court in South Africa.

E17. MY FIRST KNOWLEDGE OF THE BCHC FINDINGS

107. I reiterate that I did not know of BMN14 and its substantive contents when I filed BMN10 and elected to abide the earlier proceedings. I knew that allegations and an investigation relating to Bitou had been mentioned.

108. I had brought the above to the attention of the Second respondent even before a decision to appoint me for the first time in April 2026 and was thereafter brought to the First respondent's attention, who did not register any objection to my appointment during my first acting appointment.

109. That is not the same as knowing that an investigator had already produced a report which purported to find serious misconduct on my part. I only became aware of those findings in the compressed process following the order of 20 August 2026.

110. The chronology is therefore decisive:

110.1. on 20 August, BMN11 created a fresh concurrence process;

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- 110.2. by 24 August, BMN12 was submitted;
- 110.3. on 25 August, BMN13 introduced or referred to the BCHC and Bitou material;
- 110.4. on 26 August, my attorneys immediately protested in BMN16; and
- 110.5. on or about 27 August, the First Respondent made the impugned decision.

E18. THE FAILURE TO AFFORD A MEANINGFUL HEARING

- 111. I do not contend that I remained wholly unaware of BMN14 at the exact moment when the First Respondent ultimately decided the concurrence application. Such a contention would be inaccurate in light of BMN16.
- 112. My complaint is that I had never been heard when BMN14 was produced and that, once it was subsequently brought into the concurrence process, I was afforded no reasonable and meaningful opportunity to meet it before the decision was taken. The distinction is important.
- 113. Procedural fairness is not satisfied by merely alerting a person at the eleventh hour that serious findings exist. The right to be heard must be real. The subject matter was factually complex. It concerned transactions dating from my previous employment.
- 114. A proper response reasonably required:

- 114.1. access to the complete report;
 - 114.2. access to or knowledge of the underlying evidential material;
 - 114.3. an opportunity to consult properly;
 - 114.4. an opportunity to recover and consider relevant documentary records;
 - 114.5. an opportunity to answer the accounts attributed to other municipal officials; and
 - 114.6. sufficient time to formulate meaningful representations.
115. None of these requirements was afforded in any proper sense. The First Respondent knew from BMN16, before making his decision, that I disputed the fairness and reliability of the report precisely because I had never been heard.
116. Nevertheless, the concurrence decision followed immediately thereafter.

E18. THE DECISION OF 27 AUGUST 2026

117. On 27 August 2026, the First Respondent furnished his decision and reasons refusing the request for concurrence in respect of the extension of my appointment as Acting Municipal Manager. A copy of the First Respondent's decision and reasons, dated 27 August 2026, is annexed hereto marked "BMN18".
118. BMN18 is a detailed document extending over some 22 pages. I do not propose to reproduce every allegation or contention contained therein. I deal with those

portions which are material to the relief sought in these proceedings. I respectfully submit that BMN18 itself demonstrates material reviewable defects in both the process adopted by the First Respondent and the reasoning which informed his decision.

119. At the outset, the First Respondent records that the order of 20 August 2026 required him to decide whether to approve Council's request of 14 July 2026 to extend my appointment with effect from 8 August 2026 for a further and final period of three months. He further records that Knysna Municipality, its Council and I were entitled to place further motivation and information before him and that he was obliged to decide the matter by 27 August 2026.
120. The First Respondent records that he received three sets of representations: the Executive Mayor's letter of 24 August 2026; further representations received on 26 August 2026; and the letter from my attorneys, HDRS Attorneys, submitted on my behalf. He ultimately states that after considering those representations, the original request of 14 July 2026, subsequent exchanges and the affidavits in the earlier proceedings, he decided to decline concurrence.

E19. THE CENTRAL REASON FOR THE REFUSAL

121. The central consideration which emerges from BMN18 is not any deficiency in my qualifications, competencies or experience. Nor is it any identified failure by me in the performance of my duties as Acting Municipal Manager of Knysna Municipality.

122. Rather, the First Respondent states that the integrity of a municipal manager must be "beyond reproach" and that such a person cannot have serious allegations hanging over him. He concludes that, because of the Bitou allegations, he was not satisfied that I possessed the integrity required to continue performing the functions of Acting Municipal Manager.
123. The First Respondent then relies extensively upon BMN14 and BMN15 and reproduces numerous allegations and findings contained in those documents concerning events during my previous employment at Bitou Municipality.
124. Indeed, the overwhelming substantive focus of BMN18 is upon those allegations. The First Respondent ultimately records that concurrence is refused because there are serious allegations of contraventions of the MFMA which, in his view, have not been satisfactorily explained.
125. It follows that BMN14 and BMN15 were not peripheral considerations. They were central, if not decisive, to the First Respondent's decision.

F. THE FIRST RESPONDENT'S TREATMENT OF MY RIGHT TO BE HEARD

126. This makes the procedural complaint which I raised through BMN16 particularly important.
127. As already stated, my attorneys expressly informed the First Respondent before he made BMN18 that I had never previously seen BMN14 or BMN15, that BCHC had not contacted me during its investigation, that I had not been

interviewed, and that the allegations subsequently recorded as findings had not been put to me for comment.

128. The First Respondent expressly acknowledges this complaint in BMN18. He records that my attorneys contended that I had never seen the Report and Memorandum and had not been contacted by the author, approached for interview, or afforded an opportunity to comment.
129. The First Respondent therefore cannot contend that he was unaware of the audi complaint when he made the impugned decision. His answer to it is revealing.
130. When dealing with the Municipality's 26 August representations, the First Respondent states that page 6 of BMN14 demonstrates that I had been given an opportunity to make submissions and had made use of it. He further states that disciplinary proceedings were still to follow, during which I would have had "another opportunity" to address the allegations, but that I thereafter resigned from Bitou Municipality. I respectfully submit that this does not answer the complaint.
131. The representations referred to at page 6 of BMN14 were representations made by me in relation to my proposed suspension from Bitou Municipality. They were not representations made in response to a completed BCHC investigation or to the evidential case which BCHC subsequently assembled.
132. I had not at that stage been furnished with BMN14. Indeed, BMN14 had not yet been finalized. I was not interviewed by the investigators whose findings

subsequently became the basis upon which the First Respondent questioned my integrity. The statements of the officials upon whom BCHC relied were not put to me.

133. The conclusions which BCHC proposed to draw from the GG&G and ZWH transactions were not put to me.
134. I was not afforded an opportunity to respond to those conclusions before they were converted into findings of serious misconduct and recommendations for disciplinary and criminal action.
135. The fact that disciplinary proceedings might subsequently have afforded me a hearing does not answer whether the investigative process which had already produced adverse findings was fair.
136. Nor does it answer the more immediate question confronting the First Respondent on 25 to 27 August 2026: whether it was fair and rational for him to rely materially upon those untested findings when deciding whether I remained suitable to serve as Acting Municipal Manager.
137. The First Respondent himself confirms that he did precisely that. He describes BMN14 and BMN15 as relevant factors which "strongly militate against an extension".
138. Moreover, the First Respondent states that he was not required to establish a sufficiently reliable factual basis demonstrating why the extension would be

inappropriate. He regarded himself as entitled to exercise his discretion adversely upon the strength of the Report and Memorandum.

139. I am advised that this approach is legally problematic. Once the First Respondent elected to rely upon serious allegations of misconduct as the principal basis upon which to question my integrity and suitability for public office, the reliability and fairness of the material upon which he relied could not simply be disregarded.
140. The First Respondent could not, on the one hand, rely upon BMN14 as "objective evidence" justifying an adverse conclusion as to my suitability, while, on the other hand, disregard the fact that the conclusions contained therein had been reached without the investigator ever hearing me. That is precisely the approach reflected in BMN18.
141. Nor, with respect, was the procedural defect cured by furnishing a lengthy investigative report and memorandum at the eleventh hour and requiring a response effectively overnight.
142. The First Respondent records that he furnished the Report and Memorandum on 25 August 2026 and required comment by 12h00 on 26 August 2026.
143. The subject matter concerned complex procurement transactions, multiple witnesses, forensic computer analysis, municipal financial records and events extending over a considerable period.

144. It is difficult to understand how a few hours could constitute a reasonable opportunity to obtain the relevant records, consult meaningfully, investigate the allegations and prepare a proper response to findings serious enough, in the First Respondent's own view, to disqualify me from continued senior municipal office.
145. Significantly, the First Respondent characterises my attorneys' response as "too little and too late", while simultaneously relying upon the incompleteness of that response against me.
146. I respectfully contend that this reasoning illustrates the very procedural unfairness of which I complain. I was criticised for failing comprehensively to answer within hours allegations which the investigator itself had never afforded me an opportunity to answer during the investigation.

F. THE FIRST RESPONDENT'S PRIOR KNOWLEDGE OF THE BITOU INVESTIGATION

147. There is a further feature of BMN18 which requires emphasis. The First Respondent did not first become aware in August 2026 that there were allegations or an investigation concerning my previous employment at Bitou Municipality. He expressly acknowledges this.
148. In answering BMN16, the First Respondent states: ***"I already drew the attention of the Executive Mayor to the allegations regarding Mr Ngubo in my letter dated 21 May 2026."***

149. That statement appears expressly in BMN18. BMN2 confirms the position.
150. Thus, from at least May 2026, and arising from the process initiated when my original appointment was communicated to him, the First Respondent knew that allegations arising from my previous employment at Bitou Municipality existed and that a HAWKS investigation had been referred to.
151. Notwithstanding that knowledge, the First Respondent confirmed in BMN2 that I satisfied the prescribed educational qualifications, competencies and work-related experience for appointment. I thereafter performed the functions of Acting Municipal Manager from May 2026.
152. The importance of this chronology is not that the First Respondent was forever precluded from subsequently considering further information concerning Bitou. Plainly, he was entitled to consider genuinely relevant new information.
153. The importance lies elsewhere. The First Respondent had known of the existence of the Bitou allegations for months. Yet the detailed BCHC report was introduced into the concurrence process only on 25 August 2026, two days before the deadline imposed by BMN11.
154. The First Respondent himself records that he was "privy" to BMN14 and BMN15 and that he obtained a waiver of privilege from Bitou Municipality before providing the documents to the Municipality. BMN18 does not explain when the First Respondent first obtained BMN14.

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- 155. It does not explain why, if the Bitou allegations had concerned him since at least May 2026, the underlying report was not obtained and disclosed earlier.
- 156. It does not explain why a report which ultimately became central to the adverse decision was furnished only on 25 August 2026 with a deadline of noon the following day.
- 157. These matters are particularly appropriate for interrogation through the Rule 53 record.

G. FAILURE TO ASSESS MY ACTUAL PERFORMANCE AT KNYSNA MUNICIPALITY

- 158. BMN18 contains a further material omission. By 27 August 2026, I had actually served as Acting Municipal Manager of Knysna Municipality for approximately three months.
- 159. One would accordingly have expected an assessment of my suitability for a further acting period to take account not only of historical allegations arising from another municipality, but also of the best contemporaneous evidence available concerning my suitability: how I had actually performed the office during the preceding acting period.
- 160. BMN18 contains no meaningful assessment of my performance as Acting Municipal Manager. The First Respondent does not identify any act of misconduct committed by me while Acting Municipal Manager of Knysna Municipality.

161. He identifies no instance of maladministration by me at Knysna. He identifies no financial misconduct committed by me at Knysna. He identifies no failure of governance attributable to me during my acting tenure. He does not suggest that I failed to perform the functions entrusted to me. He does not refer to any adverse performance assessment by Council.
162. Nor does he identify any complaint by Knysna Municipality concerning my competence, integrity or performance during that period.
163. Instead, when confronted with the Municipality's reliance upon the stabilising work which I had performed, the First Respondent dismisses it because the representations supposedly contained insufficient detail and because, in his view, I had not been Acting Municipal Manager for sufficiently long to acquire "unique knowledge or unique institutional knowledge".
164. With respect, that does not amount to an assessment of my performance. Whether my knowledge was "unique" was not the issue.
165. The relevant consideration was whether I had competently and effectively performed the functions of Acting Municipal Manager during the initial statutory period and whether continuity in that office constituted good cause for the limited extension sought by Council.
166. Indeed, the First Respondent recognised that the office of Municipal Manager is pivotal and that suitability for that office was fundamental to his decision.

167. Having adopted suitability as a central consideration, it was incumbent upon him, I respectfully submit, rationally to consider the evidence bearing both for and against my suitability.

168. Instead, BMN18 is overwhelmingly concerned with historical allegations arising from Bitou Municipality and contains no comparable assessment of the actual evidence generated by my subsequent performance at Knysna Municipality.

169. I submit that this is a material failure to consider a relevant consideration.

H. FAILURE TO CONSIDER THE CONSEQUENCES OF THE DECISION FOR ME

170. There is another dimension which BMN18 does not meaningfully address. The First Respondent knew that his decision would have immediate consequences for me personally.

171. I had concluded BMN8 with Knysna Municipality for a fixed term ending on 6 November 2026. I had no alternative employment to which I could return if concurrence was refused.

172. The effect of the decision was therefore not simply an abstract refusal of an administrative request between two organs of State. It deprived me, with immediate practical effect, of the position in which I was employed and from which I derived my livelihood for the remainder of the contractual period. BMN18 does not reveal any consideration of that consequence.

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173. The closest the First Respondent comes to considering prejudice to me is his treatment of BMN16's warning that the BCHC report was capable of seriously damaging my career, reputation and future.
174. His response is merely to state that he cannot prevent me from instituting proceedings, including a defamation action for damages against him. That does not address the relevant prejudice.
175. A future damages claim cannot restore the balance of the fixed-term acting appointment. It cannot restore employment lost during the currency of BMN8. Nor does it answer the consequences of relying upon untested findings of misconduct to determine my present suitability for employment.
176. I respectfully submit that where a statutory discretion directly affects an individual's existing employment and livelihood, those consequences are at least relevant to a rational and proportionate exercise of that discretion, particularly where the adverse material upon which the decision rests remains disputed and untested.

H. THE FIRST RESPONDENT'S APPROACH TO THE ALLEGATIONS

177. Finally, BMN18 reveals an internal tension in the First Respondent's reasoning. The First Respondent repeatedly states that he does not purport to determine my guilt or innocence and that he is not sitting as a civil or criminal court.

178. He similarly states that he need not find me guilty before exercising his discretion adversely and describes his decision as one concerning "suitability and risk".
179. Yet the balance of BMN18 goes considerably further than merely recognising the existence of unresolved allegations. The First Respondent repeatedly adopts and relies upon substantive findings contained in BMN14.
180. He records, amongst other things, allegations that I circumvented procurement processes, expedited an irregular payment, improperly continued to control transactions, shifted blame to another official and participated in irregular, unauthorised, fruitless and wasteful expenditure.
181. Later portions of BMN18 reproduce extensive further conclusions from BMN14, including the proposition that the transactions demonstrated "a pattern of misconduct" in which I allegedly abused my position to circumvent established procedures.
182. Those are not neutral observations that allegations exist. They are substantive adverse propositions concerning my conduct.
183. The First Respondent could not rationally rely upon those propositions as sufficiently reliable to disqualify me from continued appointment while simultaneously treating the fairness of the process by which they were reached as immaterial.

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184. The question is not whether the First Respondent was required himself to conduct a disciplinary hearing or criminal trial. He plainly was not.

185. The question is whether, once he elected to make disputed findings emanating from BMN14 decisive to the exercise of his statutory discretion, he could rationally and fairly do so without ensuring that I had been afforded a meaningful opportunity to answer them. I respectfully submit that he could not.

I. THE REVIEW CONSEQUENCES OF BMN18

186. BMN18 accordingly crystallises the grounds upon which I challenge the First Respondent's decision. In summary:

- 186.1. the First Respondent relied materially, and indeed centrally, upon BMN14 and BMN15;
- 186.2. he knew before deciding the matter that I complained that BCHC had never interviewed me or afforded me an opportunity to respond to the material upon which its adverse findings were based;
- 186.3. he incorrectly treated earlier representations concerning my suspension as equivalent to an opportunity to answer the completed investigative case against me;
- 186.4. he sought to cure the absence of audi by furnishing complex adverse material on 25 August and requiring comment by noon on 26 August;

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- 186.5. he thereafter criticised my response as insufficient notwithstanding the extraordinarily compressed period afforded to me;
- 186.6. he had known of the existence of the Bitou/Hawks allegations since at least May 2026 but does not explain why the underlying material upon which he ultimately relied was introduced only at the eleventh hour;
- 186.7. he treated historical and disputed allegations arising from Bitou as decisive to my present suitability without undertaking any meaningful assessment of my actual performance during approximately three months as Acting Municipal Manager of Knysna Municipality;
- 186.8. he identified no misconduct, maladministration or performance failure committed by me during my tenure at Knysna;
- 186.9. he failed materially to consider the consequences of refusal for my existing employment and livelihood under BMN8; and
- 186.10. although professing not to determine guilt, he substantively adopted and relied upon adverse conclusions in BMN14 as the factual foundation for finding me unsuitable.
187. I respectfully submit that these matters establish substantial grounds upon which BMN18 falls to be reviewed and set aside under the constitutional principle of legality.
188. They also demonstrate why production of the complete Rule 53 record is indispensable.

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189. The record will reveal, amongst other things, when and how the First Respondent obtained BMN14 and BMN15; what communications occurred with Bitou Municipality and BCHC; what consideration was given to the audi complaint; what information concerning my actual performance at Knysna was considered; and precisely how the competing considerations were weighed.
190. I reserve my right to supplement these grounds and amend my notice of motion in terms of Rule 53(4) once that record has been produced.

K. PART A: RULE 45A

191. I seek the stay of paragraphs 1 and 2 of BMN11 pending determination of Part B. The application is brought under Rule 45A read with section 173 of the Constitution.
192. I am advised that Rule 45A confers a discretion upon the Court directed ultimately at real and substantial justice. In the circumstances, real and substantial justice requires preservation of the position pending review.
193. BMN11 deliberately postponed the prospective invalidity of Council's decision until 27 August so that a concurrence process could occur in the interim. The lawfulness of the outcome of that very process is now challenged. If BMN11 is permitted to operate irrespective of the review:
- 193.1. I immediately cease exercising the functions of Acting Municipal Manager;
- 193.2. another person may have to assume the office;

- 193.3. the administrative status quo will be altered;
 - 193.4. the fixed contractual period continues running; and
 - 193.5. Part B risks becoming practically academic before it can be determined.
194. That consequence would substantially undermine effective judicial review.

K1. PROSPECTS OF SUCCESS

195. I respectfully submit that the review raises substantial questions. BMN2 records that the First Respondent accepted my qualifications, competencies and experience and did not object to my first appointment although he was aware of the information that he now uses to refuse to concur.
196. BMN12 demonstrates detailed special circumstances and good cause advanced by Council. BMN17 demonstrates that materially different information existed concerning the alleged criminal position.
197. Against that background, the First Respondent received BMN14. BMN14 contains serious findings. Those findings were reached without BCHC ever hearing me.
198. BMN16 alerted the First Respondent expressly to that defect before he made BMN18. Despite that, no reasonable opportunity was created to enable me properly to cure the procedural deficit.

199. These matters establish, at minimum, a substantial and bona fide review deserving adjudication on a proper Rule 53 record.

K2. IRREPARABLE HARM

200. Absent interim relief, the prejudice is immediate and incapable of proper subsequent reversal. BMN8 provides for a fixed period ending 6 November 2026.
201. Time lost during a fixed acting appointment cannot later be restored. Even if the review ultimately succeeds, a judgment delivered after the fixed period has substantially or entirely expired cannot restore the opportunity to perform the office during the lost period.
202. There is also reputational prejudice arising from the effective use of findings of serious misconduct which were made without hearing me.

K3. BALANCE OF CONVENIENCE

203. Interim relief preserves rather than creates a state of affairs. I have already served as Acting Municipal Manager. Council has identified continuity and stability as material governance considerations.
204. The Council papers expressly refer to the need for uninterrupted executive leadership and avoidance of unnecessary disruption. On the other hand, immediate implementation of BMN18 would require the Municipality to reorganise senior administrative leadership while the lawfulness of that very decision is under challenge.

205. If the review succeeds, such disruption would have been unnecessary. The balance accordingly favours preservation.

K4. ABSENCE OF AN ALTERNATIVE REMEDY

206. There is no adequate alternative remedy. A damages action cannot restore time in public office. It cannot ensure continuity of municipal administration. Nor can it preserve the subject matter of the pending review.
207. Most importantly, by the time Part B is concluded, and my contract or 3-month period having expired a damages claim can never serve as alternative remedy but as further irregular, fruitless and wasteful expenditure which will be caused by the payment of salaries for 2 or 3 acting municipal managers if I am also to include the salaries paid to the suspended full time incumbent.
208. Only interim relief can constitute a constitutional and lawful remedy in these circumstances. There is also another issue that Part B will surely become moot should my or a 3-month period expire.

K5. THE EMPLOYMENT CONTRACT AND CLEAR RIGHT

209. BMN8 is separately relevant to the declaratory relief sought. BMN9 demonstrates what relief the First Respondent originally sought. BMN11 demonstrates what relief this Court actually granted. Neither document contains an order expressly reviewing and setting aside BMN8.

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210. I am advised that a distinction must be maintained between the Council's public-law decision appointing me; and the written contract subsequently concluded between the Municipality and me.
211. I recognise that the invalidity of an antecedent public act may have consequences for contractual rights.
212. That is not, however, equivalent to saying that a contract which was never itself challenged or set aside must be treated as though a Court expressly declared it void.
213. BMN8 remains an extant juristic act unless lawfully terminated or set aside. I accordingly seek the declarator formulated in the Notice of Motion.
214. In light of my employment contract which has not been impugned, cancelled or set aside, I have a clear right to occupy my position in terms of the binding employment contract.
215. I am advised that since I have demonstrated the clear right contemplated above, the remaining considerations for a stay contemplated above become surplus to requirements. This right is not only a right to remuneration, but also a right to the invaluable employment experience that comes with acting on the position.
216. For the above reasons I buttress the point that there exist justifiable grounds for the stay of the court order pending the determination of part B.

L. LEGALITY REVIEW OF THE MEC DECISION

217. BMN18 constitutes an exercise of public power and is subject at least to the constitutional principle of legality. The decision must be lawful and rational. The process adopted in reaching it must itself bear a rational relationship to the purpose for which the statutory power was conferred.
218. I submit that the decision is reviewable upon, amongst others, the grounds which follow. Procedural irrationality.
219. Material findings concerning my integrity and suitability were placed before the First Respondent. Those findings were generated through a process in which I had never been heard.
220. BMN16 placed the First Respondent squarely on notice of that fact. Despite this, no adequate process was created to permit a meaningful response.
221. A process which treats untested findings as significant adverse material but denies the affected person a practical opportunity to answer them is not rationally adapted to producing a reliable decision. Relevant and irrelevant considerations.
222. Relevant considerations included:
- 222.1. BMN2 and the First Respondent's own acceptance of my qualifications;
- 222.2. the continuing suspension of the substantive Municipal Manager;

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- 222.3. the detailed circumstances in BMN12;
- 222.4. the information contained in BMN17;
- 222.5. the fact that BMN14 was produced without hearing me; and
- 222.6. the representations in BMN16.

- 223. Whether these considerations were properly considered will be illuminated by the Rule 53 record. Conversely, if BMN14 was treated as though its allegations constituted finally established facts, this constituted a material mischaracterisation of the evidence.
- 224. An allegation, an investigative opinion, a recommendation, a criminal investigation and an adjudicated fact are juridically and evidentially different. A rational decision-maker is required to distinguish between them.
- 225. I reserve the right to supplement this review after production of the record.

M. REVIEW OF THE BCHC REPORT UNDER PAJA

- 226. BMN14 itself is challenged. BCHC was appointed by a municipality to investigate alleged misconduct concerning municipal transactions and municipal officials.
- 227. Its work was undertaken for public institutional purposes. It produced findings intended to inform official municipal action. Its recommendations expressly contemplated disciplinary, criminal and recovery measures.

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228. Those findings subsequently migrated beyond Bitou Municipality and were relied upon in the statutory concurrence process concerning my appointment at Knysna Municipality.
229. I am advised that, in these circumstances, the process is susceptible to review under PAJA if the statutory definition of administrative action is satisfied. The question whether BCHC itself exercised public power or performed a public function, and whether BMN14 had direct external legal effect, may be disputed.
230. I therefore plead legality in the alternative. Procedural unfairness. If PAJA applies, the fundamental procedural defect is stark. I was the subject of the investigation.
231. Serious misconduct was attributed to me. Yet no adequate notice was given to me; no allegations were put to me; no evidence was presented to me; I was not interviewed; I was not permitted to make representations; I was not afforded an opportunity to address the accounts of persons who were interviewed; and no draft findings were furnished for comment.
232. The effect was to condemn me unheard. I accordingly rely upon section 6(2)(c) of PAJA and such additional grounds under sections 6(2)(a), (b), (e), (f) and (h) as may be established upon receipt of the record.
233. I do not presently have the complete investigation record. I cannot therefore reasonably be expected to identify every evidential or legal defect in BMN14 before production thereof.

234. That is the purpose of Rule 53.

M1. ALTERNATIVE LEGALITY REVIEW

235. If this Honourable Court concludes that BMN14 does not constitute administrative action under PAJA, I challenge its adverse findings and recommendations under the constitutional principle of legality to the extent that they constitute or form an integral part of the exercise of public power.
236. The fact that Bitou Municipality outsourced the investigation to private attorneys cannot, by itself, insulate the exercise of public governmental functions from constitutional scrutiny. BMN14 concerned municipal administration.
237. It investigated the conduct of municipal officials. It recommended the exercise of disciplinary, civil and criminal powers. It subsequently became instrumental in another statutory public decision.
238. I submit that a process of that character cannot lawfully produce serious adverse findings against a person without affording him any opportunity to be heard.

N. REMITTAL AND SUBSTITUTION

239. Upon the setting aside of BMN18 I principally seek remittal to the First Respondent. The concurrence power is entrusted by statute to him. Any reconsideration must, however, take place upon a procedurally lawful footing.

240. I must be furnished with all material adverse information and afforded sufficient time and opportunity properly to answer it. I seek substitution only in the alternative.

241. The Rule 53 record will assist in determining whether exceptional circumstances exist. In particular, substitution may become appropriate if:

241.1. all material facts are ultimately before Court;

241.2. the lawful outcome is effectively foreordained;

241.3. further remittal would generate unjustifiable delay;

241.4. the short remaining duration of BMN8 makes remittal ineffective; or

241.5. other circumstances disclosed by the record render substitution just and equitable.

O. URGENCY

242. Part A is urgent. The urgency did not arise merely from the order granted on 20 August 2026. That order contemplated that the First Respondent might still provide concurrence and thereby permit the continuation of my acting appointment. Had concurrence been granted, the present urgent application would not have arisen.

243. The event which crystallised the urgency was the First Respondent's decision of 27 August 2026 refusing concurrence. That decision was communicated to,

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alternatively received by me, only late on Friday, 28 August 2026. I thereafter instructed my legal representatives to act with expedition.

244. The matter therefore did not become ripe for urgent judicial intervention until the adverse decision itself had been communicated to me. The present application follows immediately upon that event and cannot properly be characterised as self-created urgency.
245. The consequences of the decision are immediate. In terms of BMN11, the prospective invalidity of Council's decision became operative upon the refusal of concurrence. At the same time, BMN8, my written contract of employment, continues to subsist and has not itself been reviewed, set aside or cancelled.
246. This creates an untenable position. Unless interim relief is granted, the office of Municipal Manager will be left without a lawful incumbent for so long as my contract subsists and another person is appointed or employed to perform the very functions which I remain contractually engaged to perform.
247. That consequence has implications beyond my personal interests. The office of Municipal Manager is the principal administrative office of the Municipality and decisions taken by the person occupying that office have direct legal and administrative consequences for the Municipality, its employees, service providers, creditors and residents.
248. The previous proceedings themselves demonstrate the danger. BMN11 expressly preserved the validity of decisions taken by me before 27 August 2026 because the validity of the appointment bears directly upon the lawfulness

of decisions taken by the incumbent of the office. The same risk arises if another person is appointed or placed in the office while the lawfulness of the First Respondent's refusal, and the effect of my subsisting contract, remain unresolved.

249. In those circumstances, any person appointed to perform the functions of Municipal Manager during the currency of BMN8 may face the same form of legal challenge which gave rise to the earlier proceedings. Decisions taken by that person may become vulnerable to challenge on the basis of the lawfulness of his or her appointment or authority.
250. That would create precisely the administrative uncertainty which interim relief is designed to avoid. It may also expose the Municipality to duplicated employment costs and further litigation while the substantive Municipal Manager remains suspended and my own contract continues to run.
251. The prejudice is compounded by the limited duration of BMN8. My fixed-term appointment terminates on 6 November 2026. Every day during which the decision operates diminishes the practical value of the review.
252. Time lost during a fixed acting appointment cannot subsequently be restored. Even if I ultimately succeed in Part B, a judgment delivered after, or close to, expiry of BMN8 cannot restore the period during which I was prevented from performing the office.

253. The same applies to the experience and professional benefit associated with occupying the office of Acting Municipal Manager. Those are not capable of adequate retrospective compensation.
254. I am advised that the ultimate enquiry under Rule 6(12) is whether I will be able to obtain substantial redress in due course if the matter is not heard urgently. On the facts set out above, the answer is plainly no.
255. If I am required to await the ordinary opposed motion process:
- 255.1. a substantial portion, if not the whole, of BMN8 is likely to expire before effective relief can be obtained;
 - 255.2. another person may meanwhile be appointed or employed to occupy the office;
 - 255.3. the lawfulness of decisions taken by such person may itself become vulnerable to challenge;
 - 255.4. the Municipality may incur duplicative remuneration and associated costs;
 - 255.5. the administrative status quo will have been materially altered before the legality of the impugned decision is determined; and
 - 255.6. Part B risks becoming academic or practically ineffectual.

256. These consequences cannot adequately be cured by a later damages claim. A damages award cannot restore time in office, cure institutional uncertainty, validate decisions taken by another disputed incumbent or recreate the administrative continuity which Council sought to preserve.
257. The urgency is therefore both personal and institutional. It concerns my contractual and constitutional interests, but also the lawful and stable administration of Knysna Municipality.
258. This is why the considerations set out under Rule 45A are inseparable from urgency. The stay sought does not determine Part B finally. It merely preserves the position long enough to permit the Court to determine the legality of the impugned decision before the dispute is overtaken by events.
259. I respectfully submit that this is a paradigm case in which substantial redress will not be available in due course unless Part A is determined urgently. I accordingly seek that the ordinary forms, service and time periods be dispensed with and that Part A be heard as one of urgency in terms of Rule 6(12).

O. CONCLUSION AND COSTS

260. I do not seek an adverse costs order against a Respondent who reasonably abides the decision of the Court.
261. Where opposition is persisted in unsuccessfully, I seek the costs provided for in the Notice of Motion, including the costs of two counsel where so employed.

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262. BMN1 to BMN18 tell the chronology of this matter. BMN1 established my original acting appointment. BMN2 established that the First Respondent regarded me as suitably qualified, while raising the Bitou investigation.
263. BMN3 to BMN7 demonstrate the successive attempts by Council and the First Respondent to deal with the question of concurrence. BMN8 records my written contractual relationship with Knysna Municipality.
264. BMN9, BMN10 and BMN11 establish what occurred in the earlier litigation and place my election to abide fully before this Court. BMN11 did not end the decision-making process. It expressly created a fresh one.
265. BMN12 was submitted pursuant to that order. BMN13 thereafter brought materially adverse information into the process. BMN14 contained findings of serious misconduct reached without ever hearing me.
266. BMN15 formed part of the Bitou material. BMN16 demonstrates that I immediately raised the absence of audi before the First Respondent made his decision.
267. BMN17 demonstrates the competing information concerning the alleged criminal investigation. BMN18 then determined the concurrence application adversely to me.
268. It is therefore incorrect to characterise this matter as a belated attempt to reopen proceedings I chose not to oppose. The principal impugned conduct occurred thereafter. I recognise and respect the binding character of BMN11.

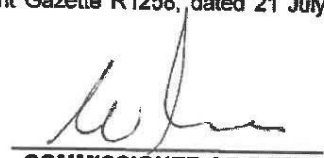
269. That is why I seek a judicial stay rather than resort to self-help. Unless a stay is granted, however, the review is liable to be overtaken by the short duration of my appointment.

270. I respectfully submit that real and substantial justice requires that the position be preserved until Part B is determined. I accordingly pray for an order in accordance with the Notice of Motion.

P. DECLARATION AND OATH


BOY MANQOBA NGUBO

Thus done and signed before me at **KNYSNA** on this **31st** day of **AUGUST 2026**, the deponent having acknowledged that he knows and understands the contents of this declaration, and that he considers the prescribed oath binding on his conscience and has no objection against the taking of the said oath. There has been compliance with the requirements of regulations contained in Government Gazette R1258, dated 21 July 1972 (as amended).


COMMISSIONER OF OATHS
FULL NAMES: CAPACITY /RANK: STREET ADDRESS:

WAYNE MALCOLM TURNER
12 Upper Deck Building
Plettenberg Bay
Commissioner of Oaths
Tax Practitioner
SAIT Member #58513367

B

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

CASE NO: 2026-210434

In the matter between:

BOY MANQOBA NGUBO

Applicant

And

**THE MEMBER OF THE EXECUTIVE COUNCIL FOR LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING, WESTERN
CAPE**

First Respondent

KNYSNA LOCAL MUNICIPALITY

Second Respondent

BITOU LOCAL MUNICIPALITY

Third Respondent

BRADLEY CONRADIE HALTON CHEADLE ATTORNEYS (BCHC)

Fourth Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

THANDO CHARLES MATIKA

do hereby make oath and state as follows:

1. I am an adult male and the Executive Mayor of the Second Respondent, the Knysna Local Municipality, and I depose to this affidavit in that capacity and on behalf of the Second Respondent.
2. The facts contained in this affidavit fall within my personal knowledge, save where the context indicates otherwise, and are, to the best of my belief, both true and correct. Where I depose to matters that are not within my personal knowledge, I do so from the records of the Second Respondent, to which I have access in my capacity as Executive Mayor, and I indicate this where relevant. Where I make submissions of a legal nature, I do so on the advice

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of the Second Respondent's legal representatives, which advice I accept as correct.

3. I am duly authorised to depose to this affidavit on behalf of the Second Respondent by virtue of the resolution taken by the Second Respondent's Council on 31 August 2026 under Proposal 2, alternatively by virtue of my office as Executive Mayor and the Second Respondent's System of Delegations. I was present at the Special Council Meeting of 31 August 2026 referred to below and voted in favour of the resolution recorded under Proposal 2.
4. I depose to this affidavit on behalf of the Second Respondent in support of the application brought by the Applicant, Mr Boy Manqoba Ngubo, against the First Respondent ("the MEC"), the Second Respondent, the Third Respondent and the Fourth Respondent under the above case number, as set out in the Notice of Motion dated 31 August 2026 ("the Notice of Motion"). The Notice of Motion is in two parts. Part A seeks urgent interim relief, including the suspension of the operation of paragraphs 1 and 2 of this Honourable Court's order of 20 August 2026 (case number 2026-196199), the suspension of the operation of the decision of the First Respondent dated 27 August 2026 refusing concurrence for the extension of the Applicant's appointment as Acting Municipal Manager of the Second Respondent ("the MEC's decision"), an interdict restraining the First, Second and Third Respondents from implementing the MEC's decision, and an order preserving the status quo in relation to the Applicant's appointment and his employment contract with the Second Respondent dated 7 August 2026, pending the final determination of Part B. Part B seeks the review and setting aside of the MEC's decision, and of the preparation, finalisation, adoption and/or issuing of the investigation report of the Fourth Respondent dated 15 November 2024 ("the BCHC Report") and the adverse findings, conclusions and recommendations contained therein concerning the Applicant, together with consequential and alternative relief including remittal to the First Respondent, alternatively substitution.

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5. The Second Respondent supports the relief sought by the Applicant in both Part A and Part B of the Notice of Motion. In this affidavit I deal, in particular, with two matters that I respectfully submit are of central importance to that relief: first, the resolution taken by the Second Respondent's Council at its Special Council Meeting held on 31 August 2026, under Proposal 2, in relation to the MEC's decision and the process which preceded it; and second, the report prepared by Mosdell Pama & Cox Inc, dated 26 August 2026, analysing the BCHC Report, upon which the MEC appears to have placed reliance.

BACKGROUND

6. The BCHC Report concerns allegations of tender irregularities levelled against the Applicant arising from his tenure at the Bitou Municipality, during which he served as Acting Director: Planning and Development and, at various times, as Acting Chief Financial Officer. The Applicant was thereafter appointed as Acting Municipal Manager of the Second Respondent. The BCHC Report recommends, among other things, that disciplinary action be taken against the Applicant, that a criminal complaint be lodged with the Directorate for Priority Crime Investigation (the Hawks), and that civil proceedings be instituted against the Applicant and/or GG&G Consulting Engineers (Pty) Ltd to recover monies said to have been paid.
7. On 20 August 2026, this Honourable Court made an order regulating the concurrence process in respect of the extension of the Applicant's acting appointment. On 27 August 2026, the MEC issued a decision refusing concurrence for such extension.
8. On 31 August 2026, the Second Respondent convened a Special Council Meeting to consider the MEC's decision. Two competing proposals were placed before Council. Proposal 1, moved by Cllr S Campbell and seconded by Cllr S Sabbagh, sought Council's approval to request the Provincial MEC to second a suitable official to act as municipal manager. Proposal 1 was not carried.

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9. Proposal 2, moved by Cllr M Gericke and seconded by Cllr N Louw, was carried by majority vote (nine votes in favour to eight against, with one Councillor not voting and two Councillors absent with leave). It is this resolution, and the matters recorded in it, upon which I place particular reliance in this affidavit, and to which I now turn.

THE COUNCIL RESOLUTION UNDER PROPOSAL 2 – 31 AUGUST 2026

10. As recorded above, I was present at the Special Council Meeting of the Second Respondent held on 31 August 2026, at which the resolution under Proposal 2 was carried by majority, with my own vote cast in favour of that resolution. A true copy of the minutes of that meeting, reflecting the resolution taken under Proposal 2, is annexed hereto marked "TM1".
11. I respectfully draw this Honourable Court's attention to the following matters recorded in the Council's resolution, which I submit are directly relevant to the fairness and lawfulness of the process that preceded the MEC's decision:
- 11.1) Council recorded that its earlier consent to the order of 20 August 2026 preceded the subsequent introduction, into the concurrence process, of substantial adverse material, including the BCHC Report and an internal Bitou Municipality memorandum which had not, at that stage, been made available to or considered by Council, and that the resolution taken on 31 August 2026 arose from materially different circumstances that had since developed. The BCHC report was submitted to me for consideration by the MEC on the 25th of August 2026 who requested our response thereto after considering same on the 26th of August 2026. I responded to the MEC and highlighted our position concerning the BCHC report. A copy of the said letter is attached hereto marked "TM2"
- 11.2) Council recorded its concern that the aforesaid material was only furnished to the Second Respondent on 25 August 2026, after the deadline imposed by this Court's order for further representations,

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with the Second Respondent being afforded only until 12h00 on 26 August 2026 to respond a period which, on Council's own resolution, did not afford it, as a collective decision-making body, a reasonable opportunity to properly consider a comprehensive response from the Applicant, to obtain necessary advice, or to formulate an informed response to the newly introduced material;

- 11.3) Council recorded its further concern that the MEC thereafter relied, as reasons for refusing concurrence, upon Council's asserted failure to investigate and consider the newly introduced material, and upon the absence of a comprehensive response from the Applicant being steps which, on Council's own resolution, it had not been afforded a reasonable opportunity to undertake within the time permitted;
- 11.4) Council resolved that the MEC's decision of 27 August 2026 be taken on review, and authorised the institution of review proceedings, including urgent interim and/or ancillary relief as may be necessary, and the appointment of legal representatives for that purpose, including to obtain the complete record relevant to the MEC's decision;
- 11.5) Council expressly recorded that its decision to institute review proceedings does not constitute an acceptance or rejection of the allegations or conclusions contained in the BCHC Report or the internal Bitou Municipality memorandum, and resolved that the Applicant be afforded seven (7) days to submit a comprehensive written response thereto, whereafter the Report and his response would be placed before Council for proper consideration.
12. I submit that the Council resolution is significant for present purposes in at least three respects. First, it constitutes a formal, contemporaneous record by the very municipal body responsible for the concurrence process that the process leading to the MEC's decision was procedurally unfair, in that materially adverse information was introduced late and without an adequate opportunity for consideration or response. Second, it confirms that Council as a collective have not been afforded a fair opportunity to engage with the

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BCHC Report before the MEC relied upon the absence of such engagement as a ground for refusing concurrence. Third, and importantly, Council itself has resolved to challenge the very decision the Applicant seeks to review in this application, on substantially overlapping grounds, which I submit is a matter this Honourable Court should take into account.

THE MOSDELL PAMA & COX ANALYSIS OF THE BCHC REPORT

13. I am advised, and respectfully submit on behalf of the Second Respondent, that the BCHC Report itself upon which the adverse material referred to in the Council resolution is substantially based, and upon which the MEC appears to have placed reliance suffers from fundamental procedural and substantive deficiencies. These deficiencies are set out in detail in a report prepared by the Second Respondent's attorneys, Mosdell Pama & Cox Inc, dated 26 August 2026, analysing the BCHC Report ("the MPC Report"). A true copy of the MPC Report is annexed hereto marked "TM3".
14. I respectfully highlight the following principal findings and submissions contained in the MPC Report, which are consistent with, and reinforce, the concerns already recorded by the Second Respondent's Council in its own resolution referred to above, and which I refer to in support of the relief sought by the Applicant:
 - 14.1) Breach of the audi alteram partem principle: the MPC Report records that the Applicant was never interviewed by the Investigators, and that the only "input" attributed to the Applicant in the BCHC Report is an extract from his written response to a notice of suspension dated 1 October 2024, a response prepared before the witness interviews took place, before the forensic imaging of devices had been analysed, and before the Applicant could have known what conclusions the Investigators would draw. The MPC Report submits that a submission addressing the narrow question of suspension cannot properly be treated as a complete and final response to the ultimate findings of the investigation.

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- 14.2) Adverse credibility and intention findings made without any opportunity to respond, including the characterisation, at paragraph 83 of the BCHC Report, of the Applicant's account as "false"; the finding at paragraph 248 that the Applicant "sought to shift blame"; and the inference at paragraph 251 that the Applicant "expedited the payment... to push the transaction through unnoticed", none of which, on the MPC Report's analysis, was ever put to the Applicant for comment.
- 14.3) Undisclosed forensic findings: the forensic review of the Applicant's laptop and external hard drive, and the comparative review of a colleague's laptop, were never disclosed to the Applicant, and the Applicant was never afforded an opportunity to explain, contextualise, or challenge the scope of what the Investigators themselves described as merely a "cursory review".
- 14.4) Untested expert analyses: the plagiarism analysis said to trace the GG&G report to a 2019 study, and the signature-mismatch analysis on the GG&G invoices, were compiled by the Investigators after the fact and were never put to the Applicant, to GG&G, or to any other affected party for comment, notwithstanding that a fair process required, at minimum, that such findings be put to the Applicant before the Report was finalised.
- 14.5) No opportunity afforded to GG&G: serious adverse findings were made against GG&G Consulting Engineers (Pty) Ltd, including that its report was plagiarised and its invoices fraudulent, without any indication that GG&G was interviewed or given an opportunity to respond, findings which the MPC Report submits were nonetheless used to reinforce the case against the Applicant.
- 14.6) Conflation of distinct statutory categories of expenditure: the MPC Report submits that the BCHC Report's central conclusion that the relevant payment constituted "irregular, unauthorised, fruitless and wasteful expenditure", borrows the language of section 1 of the Municipal Finance Management Act 56 of 2003 without applying the

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applicable definitions correctly, and treats four legally distinct categories, each requiring separate analysis, as an undifferentiated and self-proving package.

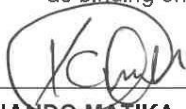
- 14.7) Internal inconsistency on knowledge and intent: the MPC Report identifies a direct inconsistency between paragraph 264 of the BCHC Report, which states that whether the Applicant knew the GG&G report was plagiarised “is neither here nor there”, and paragraph 285, which nonetheless recommends a criminal fraud referral to the Hawks, a charge which ordinarily requires proof of knowledge of falsity.
- 14.8) Reliance on hearsay, speculation and characterisation presented as fact, including findings said to be based on witnesses’ accounts of what they “heard” or were “told”, and characterisations such as that a situation “seemed orchestrated” or “raises a reasonable suspicion”, which the MPC Report submits go well beyond what the underlying evidence is capable of establishing.
- 14.9) On the merits, the MPC Report notes, in relation to the ZWH generators transaction specifically, that no generators were ever delivered and no payment was ever made, such that no expenditure and accordingly no irregular expenditure as defined in the MFMA arose in that respect at all.
15. The MPC Report concludes that the BCHC Report, in its current form, suffers material deficiencies, inconsistencies and evidentiary shortcomings which undermine its reliability and probative value, and that any reliance placed on it as justification for refusing or withholding concurrence in respect of the Applicant’s continued acting appointment should be approached with caution, given that its factual and legal foundation appears to be materially deficient.
16. I submit that the deficiencies identified in the MPC Report, taken together with the matters recorded in the Council’s own resolution under Proposal 2, demonstrate that the process which culminated in the MEC’s decision of 27

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August 2026 was procedurally unfair and that the decision was not rationally or lawfully founded on a proper and complete factual basis.

CONCLUSION

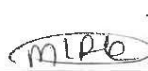
17. I confirm that the matters set out above reflect the Second Respondent's own position, as recorded in the resolution of its Council, and that the Second Respondent accordingly has no interest in opposing the interim relief sought in Part A of the Notice of Motion, including the suspension of the MEC's decision and the preservation of the status quo in relation to the Applicant's appointment and his employment contract with the Second Respondent, pending the final determination of Part B.
18. In the premises, and on behalf of the Second Respondent, I respectfully submit that the MEC's decision of 27 August 2026, and the BCHC Report insofar as it concerns the Applicant, fall to be reviewed and set aside, and I respectfully ask this Honourable Court to grant the relief sought by the Applicant in Part A and Part B of the Notice of Motion.
19. I confirm that I have read this affidavit, that I understand its contents, that I have no objection to taking the prescribed oath, and that I regard the oath as binding on my conscience.



THANDO MATIKA

Executive Mayor: Knysna Local Municipality

I CERTIFY that the above affidavit was signed and sworn to before me at KNYSNA on this 02 day of SEPTEMBER 2026, the Deponent having acknowledged that he knows and understands the contents of this affidavit, that he has no objection to taking the prescribed oath, and that he considers the oath to be binding on his conscience.

 **TH. G. ZULU**
CST
ME DIKE

COMMISSIONER OF OATHS



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Full name: MEGAN DIBK

Designation: CST



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**REPORT ON THE ANALYSIS OF THE INVESTIGATION REPORT PREPARED BY
BRADLEY CONRADIE HALTON CHEADLE – ALLEGATIONS AGAINST BOY
NGUBO**

INTRODUCTION

- 1 This report is prepared on the instruction of the Knysna Municipality and is submitted following an analysis of the findings contained in the investigation report prepared by Bradley Conradie Halton Cheadle ("BCHC" or "the Investigators"), dated 15 November 2024, concerning allegations of tender irregularities against Mr. Boy Ngubo, during his tenure as both the Acting Director: Planning and Development and the Acting CFO for the Bitou Municipality ("the Report").
- 2 The Report recommends, among other things, that disciplinary action be taken against Mr. Ngubo for serious misconduct, that a criminal complaint be lodged with the HAWKS, and that a civil suit be instituted against Mr. Ngubo and/or GG&G Consulting Engineers (Pty) Ltd ("GG&G") to recover monies paid.
- 3 We have conducted a brief analysis of the report, on an expedited basis and the purpose hereof is to identify what is in our considered view, the fundamental procedural and substantive deficiencies in the Report.

PRELIMINARY POINT: BREACH OF AUDI ALTERAM PARTEM

- 4 It is trite that no adverse finding of misconduct may be made against an employee without that employee being given a fair and adequate opportunity to respond to the specific evidence and inferences relied upon against them. This is a foundational principle of our law, reflected in section 33 of the Constitution and the Promotion of Administrative Justice Act 3 of 2000, it is our submission that the Report does not meet this standard.
- 5 Paragraph 3 of the Report lists seven employees interviewed by the Investigators on 5 and 6 November 2024. What is evident from the report is that Mr. Ngubo was not interviewed by the investigator.

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- 6 The only "input" from Mr. Ngubo reproduced in the Report is an extract from his written response to a notice of suspension dated 1 October 2024 (Report, para 4.19 and paras 7–8), which was prepared before the interviews took place, before the forensic imaging of devices was analyzed, and before Mr. Ngubo could have known what any of his former colleagues would say or what conclusions the Investigators would draw from that evidence.
- 7 A submission made in response to a suspension notice, addressing the narrow question of whether suspension was warranted, is not equivalent to a response to the final findings of a complete investigation. The report purportedly treats the suspension of Mr. Ngubo as a submission as if it were his complete and final answer to every allegation ultimately made against him.
- 8 The Report draws firm, adverse conclusions about the honesty and intentions of Mr. Ngubo without affording him any opportunity to respond to the specific evidence said to support them.
- 9 The Report states, at paragraph 83, that the account of events by Mr. Ngubo is "false" and that Mr. Maredi's version establishes that he was approached by Mr. Ngubo for procurement advice before GG&G was engaged — directly contradicting the version of Mr. Ngubo in his responses to submit reasons as to why he should not be suspended.
- 10 This is a direct credibility finding against Mr. Ngubo, by the investigator made on the strength of one witness's recollection, without having afforded Mr. Ngubo an opportunity to test, clarify, or respond to Mr. Maredi's account.
- 11 The Report states, at paragraph 248, that Mr. Ngubo "sought to shift blame" onto Mr. Links. This is a characterization of the motive and credibility of Mr. Ngubo and not a neutral factual finding.
- 12 The Report states, at paragraph 251, that Mr. Ngubo "expedited the payment... to push the transaction through unnoticed." This is an inference of deliberate concealment. No such inference was ever put to Mr. Ngubo for comment.
- 13 The forensic review of Mr. Ngubo's laptop, which we safely and for the purpose of this report, assume was issued to him by the Bitou Municipality during his employ and external hard drive (Report, paras 261–262), is said to show no email correspondence with GG&G. Similarly, the comparative review of Mr. Links' laptop (para 263), from the content of the report were never disclosed to Mr. Ngubo, and he was never given the opportunity to explain, contextualize, or challenge the scope and adequacy of that review — which the Investigators themselves describe as merely a "cursory review" (para 261).

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- 14 The plagiarism analysis said to trace the GG&G report to a 2019 economic impact study of San Francisco International Airport (para 256), and the signature-mismatch analysis on the GG&G invoices (paras 106, 260), were both compiled by the Investigators themselves after the fact and were never put to Mr. Ngubo, to GG&G, or to any other affected party for comment.
- 15 A fair process required, at minimum, that these specific findings be put to Mr. Ngubo, before a report of this nature was finalized in its current terms and forwarded with recommendations for disciplinary action, criminal referral, and civil recovery.
- 16 The Report makes serious adverse findings against GG&G, including an allegation that its report was plagiarized and its invoices were fraudulent (paras 258–259, 285). There is no indication in the Report that any director or representative of GG&G was interviewed, or given an opportunity to respond, before those findings were made. To the extent the case against Mr. Ngubo is built in part on inferences drawn from GG&G's conduct, the absence of any right of reply afforded to GG&G compounds the unfairness of the process. This is of particular importance in our view, since findings against GG&G are used to reinforce the case against Mr. Ngubo without either party having tested them.
- 17 From the content of the report, it is evident that Mr. Ngubo was placed on suspension on or about 1 October 2024. The interviews on which the Report's factual findings substantially rest were conducted more than a month later, on 5 and 6 November 2024. The Report was finalized on 15 November 2024, nine days after the last interview, without any further engagement with Mr. Ngubo in the interim.
- 18 For these reasons, we submit that one of the fundamental procedural weaknesses of the Report, which calls to question its purported reliance pertaining to the suitability of Mr. Ngubo's continued appointment as an Accounting Officer, is that the report was compiled and finalized in breach of the *audi alteram partem* principle.
- 19 As such it is our submission that a finding of suitability for appointment as an acting Accounting Officer, cannot find its basis on the strength of the Report until this defect has been cured by affording M Ngubo a proper, meaningful opportunity to respond to the specific findings and evidence relied upon.

**THE REPORT CONFLATES DISTINCT AND LEGALLY DISTINCT CATEGORIES OF
EXPENDITURE**

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- 20 The Report's central financial conclusion, repeated at paragraphs 236 and 279, is that the GG&G payment constituted "irregular, unauthorized, fruitless and wasteful expenditure." This formulation borrows the language of section 1 of the Municipal Finance Management Act 56 of 2003 ("MFMA"), but it does not apply the definitions correctly, and it treats four legally distinct categories as an undifferentiated, self-proving package. Each requires separate and specific analysis, which the Report does not undertake.

IRREGULAR EXPENDITURE

- 21 Irregular expenditure, as defined in section 1 of the MFMA, is expenditure incurred otherwise than in accordance with a requirement of the MFMA, the Municipal Supply Chain Management Regulations or the Municipality's own supply chain management policy. It is a process-based concept: it does not require proof of dishonesty, personal benefit, or that no value was received.
- 22 To the extent the Report establishes that no formal SCM process was followed for the GG&G engagement, that may support a finding of irregular expenditure. However, the Report does not identify precisely which SCM provision was contravened, by whom, or at what stage of the process, all of which are necessary to sustain the finding, and all of which bear directly on whether responsibility, if any, lies with Mr. Ngubo personally.
- 23 We interpose here to highlight that no evidence has been presented by the MEC for Local Government, Mr. Bredell that any steps were taken by the Bitou Municipality that steps were indeed taken to recover any monies from GG&G or whether any criminal charges were laid against the entity.

FRUITLESS AND WASTEFUL EXPENDITURE

- 24 Fruitless and wasteful expenditure, as defined in section 1 of the MFMA, is expenditure made in vain that would have been avoided had reasonable care been exercised. This is a distinct test from irregularity: it requires a finding that no value was obtained and that this was reasonably avoidable. The Report's finding that the GG&G report was of no value rests entirely on the Investigators' own comparative review against a 2019 San Francisco airport study (para 256) — a piece of analysis conducted internally by BCHC, without independent verification, and never tested with GG&G or any other official involved in the reported airport tender. A finding as serious as fruitless and wasteful expenditure, carrying personal financial exposure, should not rest solely on an untested, in-house comparison of this kind.

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UNAUTHORISED EXPENDITURE

- 25 Unauthorized expenditure, as defined in section 1 of the MFMA, concerns overspending of a vote or spending not in accordance with the purpose of a vote — a budgetary and appropriation concept governed by the Municipality's virement policy (see Report, para 89). On the Report's own account, the internal witnesses gave inconsistent and uncertain evidence as to how the GG&G invoices were coded, miscoded, and reversed between budget lines (paras 11–19, 165–166, 208–213). Mr. Pretorius, Mr. Maki, and Ms Wakeni each gave differing accounts of the journal entries and their corrections. This internal inconsistency, on the Investigators' own record, undermines rather than supports a confident finding of unauthorized expenditure, which requires precision as to the vote from which, and the vote to which, funds were said to be improperly applied.
- 26 By bundling these three categories together with a fourth, unexplained reference to "waste" into a single conclusory phrase, the Report avoids the separate legal and evidentiary tests each category demands. This is not a mere semantic point: the classification of expenditure determines the applicable remedy, the standard of proof, and the basis (if any) for personal financial liability under section 32 of the MFMA. A finding of this nature, with these consequences, should be arrived at only after a category-by-category analysis, which the Report does not provide.

THE REPORT'S TREATMENT OF INTENT AND KNOWLEDGE IS INTERNALLY INCONSISTENT

- 27 At paragraph 264, the Report expressly states: "*Whether he knew that the report was plagiarized or not is neither here nor there and does not detract from his misconduct.*" Yet at paragraph 285, the Report recommends that a criminal complaint be lodged with the HAWKS alleging that the GG&G report "*is alleged to be a fraud*" in return for payment. Fraud, as a criminal offence, ordinarily requires proof of a misrepresentation made with knowledge of its falsity and an intention to induce prejudice. A Report that expressly disclaims any need to establish Mr. Ngubo's knowledge cannot, in the same breath, properly ground a criminal fraud referral against him. This internal inconsistency goes to the heart of the findings and recommendations.

THE REPORT RELIES SUBSTANTIALLY ON HEARSAY, SPECULATION, AND CHARACTERISATION PRESENTED AS FACT

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- 28 Beyond the *audi alteram partem* defect, the evidentiary quality of several findings in the Report does not, in our respectful submission, meet the standard required to justify the sanctions recommended.
- 29 Witness accounts are repeatedly qualified as “he heard that” (para 25), “he was told” (para 181), “it is possible” (para 181), and “presumably” (para 249), yet these qualified accounts are then incorporated into the “Analysis” section (paras 233–279) as though they were established fact.
- 30 The Report characterizes events using language that goes well beyond what the underlying evidence establishes, for example: that “**the whole situation seemed orchestrated to pressure the Municipality**” (our emphasis) (para 99); that invoice-splitting was “**likely orchestrated to bypass procurement thresholds**” (our emphasis) (para 239); and that ZWH’s registration in a municipality where Mr. Ngubo was previously employed “**raises a reasonable suspicion of an existing relationship**” (our emphasis) (para 269), a suspicion based on geographic coincidence alone, with no supporting evidence of any actual relationship between Mr. Ngubo and ZWH’s directors. These findings of the investigator are alarming and subjective, based on what seems to be more of an emotion or a “gut feel” than supported by facts.
- 31 The absence of email correspondence between Mr. Ngubo and GG&G or Mr. Links is treated as affirmative proof that Mr. Ngubo alone orchestrated the GG&G engagement (paras 261–264), notwithstanding that the Investigators themselves describe this search as only a “cursory review” (para 261). It is our submission that an absence of evidence, particularly following a self-described cursory review, cannot fairly be converted into positive proof of individual wrongdoing.
- 32 Several witnesses were permitted to offer opinion evidence on what Mr. Ngubo, personally, would or would not have done, or on his motives and attitude (e.g. Mr. Maredi’s characterization of Mr. Ngubo’s general conduct and attitude at paragraphs 183–184), rather than confining their evidence to facts within their direct knowledge.
- 33 These features, taken together, suggest that the Report’s “Analysis” section moves considerably beyond what the underlying witness evidence, fairly read, is capable of establishing.

ANALYSIS AND COMMENTS ON THE MERITS OF THE MATTER

- 34 The Report’s suggestion that Mr. Ngubo orchestrated the transaction to be “*pushed through unnoticed*” (para 251) is speculative and is contradicted by the Report’s own observation that the invoices, dated June 2024, fell within

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the ordinary 30-day payment window (para 87) and were processed through the Municipality's normal expenditure verification channels, involving multiple officials (Mr. Pretorius, Mr. Lotter, Ms. Wakeni), each of whom exercised independent oversight functions.

- 35 On the merits of the findings pertaining to ZWH, no generators were ever delivered, and no payment was ever made to ZWH (Report, para 235). The Report's own findings confirm that Mr. Ngubo raised the absence of a budget for the generators directly with Mr. Damonds (para 58), and that he sought and received procurement advice from Mr. Maredi, who confirmed that his engagement with Mr. Ngubo was limited to advising on the appropriate procurement route (para 193). This is consistent with an official seeking guidance through appropriate channels, not with an intention to circumvent them.
- 36 The suggestion of an irregular relationship with ZWH, based solely on that company's location within a municipality where Mr. Ngubo previously served (para 269), is speculative and is not supported by any documented communication, financial connection, or other objective evidence identified anywhere in the Report.
- 37 It is our considered view that even if the procurement process relating to the generators was procedurally defective, no irregular expenditure as defined in section 1 of the MFMA arose because no expenditure was incurred. The generators were never delivered, no payment was effected by the municipality, and no municipal funds were expended. Accordingly, the essential jurisdictional fact for irregular expenditure is absent. At best for the employer, the facts may disclose a breach of SCM procedures, however, as it relates to Mr. Ngubo, one must consider his conduct together with the steps he took from officials, including Mr. Maredi, the Senior Manager Expenditure, to establish the correct SCM procedures to follow.

CONCLUSION

- 38 In light of the findings and analysis contained in the report and having had due regard to the correspondence addressed by the Knysna Municipality to MEC Bredell in support of the extension of Mr. Ngubo's acting appointment, it is submitted that the motivation for such extension is adequately substantiated particularly in light of the preventative measures the Knysna Municipality submits they will implement.

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- 39 On proper consideration of the report, a number of material deficiencies, inconsistencies and evidentiary shortcomings are apparent. These defects undermine the reliability and probative value of the report and, if subjected to judicial scrutiny, may render its conclusions unsustainable. It is accordingly our considered view that the report, in its current form, is susceptible to challenge and may not withstand rigorous legal scrutiny in civil, criminal or disciplinary proceedings.
- 40 In the circumstances, any reliance placed on the report as justification for not seeking concurrence for continued acting appointment of Mr. Ngubo or withholding such concurrence on the basis thereof, should be approached with caution, as the factual and legal foundation underpinning such reliance appears to be materially deficient.
- 41 We advise accordingly.

MOSDELL PAMA & COX

PER MELONY PAULSEN

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- [g] That Council records that its decision to institute review proceedings does not constitute an acceptance or rejection of the allegations or conclusions contained in the BCHC Investigation Report and the internal Bitou Municipality internal memorandum, and that Mr Ngubo be afforded seven (7) days to submit a comprehensive written response thereto, together with such supporting documentation as may be relevant, whereafter the Report and his response shall be placed before Council for proper consideration.

Execution : Acting Director : Corporate Services

7. **ADJOURNMENT**

The Speaker thanked everyone and the meeting concluded at 11:23.

Approved

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Cllr. M Willemse
Speaker

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Date

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File Ref.: NGUBO, BM
Your Ref: 13/3/1/2/1K12 (2026/131-3/11/2/16)

2026-08-06

Ministry of Local Government, Environmental Affairs & Development Planning
9th Floor
1 Dorp Street
CAPETOWN
8001

Per: email: anton.bredell@westerncape.gov.za
azaria.babu-Rosekrans@westerncape.gov.za

Dear Minister Bredell

RE: APPLICATION FOR CONCURRENCE: EXTENSION OF THE ACTING APPOINTMENT OF MR BOY NGUBO AS MUNICIPAL MANAGER, KNYSNA MUNICIPALITY IN TERMS OF SECTION 54A(2A)(b) OF THE MUNICIPAL SYSTEMS ACT, ACT 32 OF 2000

Your letter dated 25 August 2026 refers.

Having carefully considered the contents of the BCHC report, it is our respectful submission that substantial procedural, evidentiary and legal deficiencies appear therefrom. These deficiencies materially diminish the reliability and probative value of the report and, in our view, substantially weaken any reliance thereon as a basis to determine Mr Ngubo's fitness for continued appointment.

Procedural Fairness Concerns

A significant concern arises from the apparent failure to afford Mr Ngubo a meaningful opportunity to respond to the evidence ultimately relied upon against him before adverse findings were made. The report records interviews with various municipal officials, yet there is no indication that Mr Ngubo was interviewed regarding the substantive allegations, witness evidence, forensic findings, plagiarism allegations or adverse inferences subsequently drawn by the investigators.

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Instead, the report appears to rely substantially on a response furnished by Mr Ngubo in the context of a suspension process, prior to the completion of the investigation and before he could have knowledge of the evidence eventually relied upon against him. Serious findings affecting his credibility, honesty, motives and intentions were thereafter made without affording him a proper opportunity to address those allegations.

In our respectful view, this raises a material concern regarding compliance with the *audi alteram partem* principle, a foundational requirement of procedural fairness. The absence of a fair opportunity to respond to specific allegations and evidence undermines the integrity of the conclusions reached.

Evidentiary Concerns

The report contains numerous findings and recommendations resting upon inference, speculation and subjective characterisation rather than proven fact. Various conclusions are prefaced by phrases such as "it is possible", "presumably", or by witness accounts based upon what individuals were told by others, yet these matters are subsequently treated as established factual findings.

Of further concern is the investigators' reliance upon the absence of certain electronic communications following what the report itself describes as a " cursory review" of electronic devices. Such absence of evidence appears to have been elevated into positive proof of wrongdoing, notwithstanding the limited scope of the review undertaken.

The report further attributes improper motives to Mr Ngubo, including suggestions that transactions were intentionally structured to avoid scrutiny. These findings do not appear to be supported by direct evidence and were apparently never put to Mr Ngubo for comment before the report was finalised.

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Concerns Regarding the Classification of Expenditure

The report repeatedly characterises expenditure relating to GG&G Consulting Engineers as constituting "irregular, unauthorised, fruitless and wasteful expenditure". However, these are separate statutory concepts under the Municipal Finance Management Act, each with its own legal requirements and consequences.

The report does not appear to undertake the necessary discrete analysis required to support each classification. In particular, the findings relating to unauthorised expenditure are complicated by inconsistent internal evidence concerning budget allocations and journal entries, whilst the conclusion that the expenditure was fruitless and wasteful appears to rest predominantly upon an internal comparative assessment undertaken by the investigators themselves.

In these circumstances, it is not apparent that the legal requirements necessary to sustain each classification have been properly established.

Internal Inconsistencies in the Report

The report contains what appear to be material inconsistencies concerning the issue of knowledge and intent. On the one hand, the report expressly states that whether Mr Ngubo knew of the alleged plagiarism is immaterial to the misconduct findings. On the other hand, the report recommends referral of the matter for criminal investigation in relation to alleged fraud. Fraud ordinarily requires proof of knowledge and intention. These two positions are difficult to reconcile.

Such inconsistencies are significant given the serious nature of the recommendations advanced by the investigators, including disciplinary action, civil recovery proceedings and criminal referral.

Considerations Relevant to the Acting Appointment

Importantly, the purpose of determining whether concurrence should be granted for a continued acting appointment is not to finally determine guilt or innocence in respect of contested allegations. Rather, it requires a rational assessment of whether there exists a sufficiently reliable factual foundation demonstrating that the appointment would be inappropriate.

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In the present instance, the concerns raised above suggest that the BCHC report may not, in its current form, provide such a reliable factual foundation. The report remains susceptible to challenge on procedural, evidentiary and substantive grounds.

Knysna Municipality has previously addressed correspondence to your office setting out the operational necessity for Mr Ngubo's continued acting appointment and the measures intended to mitigate any perceived risks pending finalisation of any appropriate processes. The analysis of the BCHC report demonstrates that the allegations against Mr Ngubo remain far from conclusively established and should accordingly be approached with due caution.

In light of the above, it is submitted that the BCHC report, viewed objectively, contains material deficiencies which render reliance upon it as the principal basis for refusing concurrence problematic.

We accordingly request that due consideration be given to the procedural shortcomings, evidentiary concerns and legal deficiencies identified above, together with the operational interests of the Knysna Municipality, and that concurrence for the continued acting appointment of Mr Boy Ngubo be favourably considered.

We trust that the contents of this correspondence will receive your careful consideration and remain available to provide any further information your office may require.

Yours Sincerely,



Cllr Thando C. Matlaka.

Executive Mayor

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KNYSNA LOCAL MUNICIPALITY

MINUTES

OF A SPECIAL MEETING
OF THE
KNYSNA MUNICIPALITY
WHICH WAS HELD ON
Monday, 31 August 2026 at 10:00
on Microsoft Teams

COUNCILLORS IN ATTENDANCE

Speaker, Cllr M Willemse [KIM]
Executive Mayor, Cllr T Matika [ANC]
Deputy Executive Mayor, Cllr M Gericke [PBI]
Cllr Andrews, K [ANC]
Cllr Arends, R [ANC]
Cllr Bester, P [DA]
Cllr Campbell, S [KIM]
Cllr Charlie, B [PA]
Cllr Davis, L V [DA]
Cllr Kakora, W [PA]
Cllr Khumelwana, M [ANC]
Cllr Louw, N [EFF]
Cllr Nohana, L [ANC]
Cllr Petros, P [ANC]
Cllr Sabbagh, S [DA]
Cllr Tyokolo, L [DA]
Cllr Vanston, C [DA]
Cllr Van Schalkwyk, A [DA]

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SPECIAL COUNCIL MEETING
AGENDA
10 SEPTEMBER 2026

SPECIAL COUNCIL MEETING
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SPECIAL COUNCIL MEETING
MINUTES
31 AUGUST 2026

OFFICIALS IN ATTENDANCE

Douglas, J	Director: Community Services and Acting Municipal Manager
Botha, C	Acting Director: Corporate Services
Dunywa, A	Director : Planning and Development
Lubelwana, B	Acting Director : Financial Services
Petuna, L	Acting Director : Integrated human Settlements
Phillips, L	Manager : Human Resources
Lakay, J	Head : Council Committees and Cllr Support
Campher, E	MPAC Co-ordinator and Acting Manager : Legal Services
Burger, T	Committee Officer

AUDIT COMMITTEE

None

PUBLIC MEMBERS

The meeting was streamed live on YouTube.

1. OPENING AND WELCOMING

The Speaker welcomed Councillors and officials to the meeting and confirmed that Councillors and the officials as recorded above, were present.

2. SILENT PRAYER

A moment of silent prayer observed.

3. ATTENDANCE OF MEMBERS

3.1 Councillors Present

Eighteen Councillors present

3.2 Councillors Absent with Leave

Cllr H Stroebel [DA]

Cllr White, J [DA]

3.3 Councillors absent without Leave

None

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SPECIAL COUNCIL MEETING
AGENDA
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31 AUGUST 2026

4. NOTING OF THE PROVISIONS OF THE CODE OF CONDUCT FOR COUNCILLORS AND CODE FOR ETHICAL LEADERSHIP AS ADOPTED BY COUNCIL

The Speaker drew the attention of Councillors to the Schedule 1 of the Local Government: Municipal Systems Act, 2000.

UNANIMOUSLY RESOLVED

That the Code of Conduct for Councillors and the Code for Ethical Leadership, be noted.

5. DISCLOSURE OF INTERESTS BY COUNCILLORS

UNANIMOUSLY RESOLVED

That it be noted that the following Councillor declared interest in a matter in the Agenda:

6. NEW MATTERS SUBMITTED BY THE EXECUTIVE MAYOR

SC01/08/26 CONSIDERATION OF THE DECISION BY THE MEC FOR LOCAL GOVERNMENT TO REFUSE CONCURRENCE FOR THE EXTENSION OF THE APPOINTMENT OF MR B NGUBO AS ACTING MUNICIPAL MANAGER

Proposal 1

[a] That Council takes note of the correspondence from the MEC for Local Government, Mr Anton Bredell, refusing concurrence for the extension of Mr Boy Ngubo's term as Acting Municipal Manager in terms of Section 54A(2A)(b) of the Local Government: Municipal Systems Act, Act 32 of 2000.

[b] That Council approves **Option 2**, as follows, to ensure statutory compliance and prevent administrative collapse:

Council authorizes the Executive Mayor to write to the MEC for Local Government in the Province to second a suitable and qualified official to the municipality to act as municipal manager.

[c] That Council authorizes the Executive Mayor to communicate the decision of Council to MEC for Local Government.

Proposer : Cllr S Campbell

Seconder : Cllr S Sabbagh

In favour of the proposal	Against the proposal
Cllr A Van Schalkwyk	Cllr T Matika
Cllr L Davis	Cllr M Khumelwana
Cllr P Bester	Cllr N Louw
Cllr S Sabbagh	Cllr R Kakora
Cllr L Tyokoio	Cllr M Gericke
Cllr C Vanston	Cllr P Petros

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SPECIAL COUNCIL MEETING
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Cllr S Campbell	Cllr B Charlie
Cllr M Willemse	Cllr R Arends
	Cllr K Andrews
Not present at time of voting	
Cllr H Stroebe (absent with leave)	
Cllr J White	
Did not vote	
Cllr L Nohana	
Abstained from voting	
None	

Proposal 2

- [a] That Council notes the decision of the MEC for Local Government dated 27 August 2026 refusing concurrence for the extension of Mr Boy Ngubo's terms as Acting Municipal Manager in terms of Section 54A(2A)(b) of the Local Government : Municipal Systems Act 32 of 2000, as well as the legal effect of the order of the Western Cape High court dated 20 August 2026;
- [b] That Council records that its consent to the order of 20 August 2026 preceded the subsequent introduction into the concurrence process of substantial adverse material, including the BCHC Investigation Report and the internal Bitou Municipality Memorandum, which had not at that stage been made available to or considered by Council, and that the present decision arises from the materially different circumstances which subsequently developed in the concurrence process contemplated by that order;
- [c] That Council records its concern that the aforesaid material was only furnished to the Municipality on 25 August 2026, after the Court-imposed deadline for further representations, with the Municipality being afforded until 12h00 on 26 August 2026 to respond, which did not provide Council, as a collective decision-making body, with a reasonable opportunity to properly consider a comprehensive response from Mr Ngubo, obtain any necessary advice and formulate an informed response to the newly introduced material;
- [d] That Council further records its concern that the MEC thereafter relied, as reasons for refusing concurrence, upon Council's failure to investigate and consider the newly introduced material and the absence of a comprehensive response from Mr Ngubo, being steps which Council had not been afforded a reasonable opportunity to undertake within the time permitted;
- [e] That Council resolved that the MEC's decision dated 27 August 2026 refusing concurrence be taken on review, and that the Municipality be authorised, through its delegated officials in terms of Council's System of Delegations, to take all necessary steps to institute such proceedings and to seek urgent interim and/or ancillary relief as may be legally

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SPECIAL COUNCIL MEETING
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MINUTES
31 AUGUST 2026

necessary, including, to the extent required as a consequence of the subsequent developments recorded above, appropriate relief concerning the operation and effect of the order of the Western Cape High Court dated 20 August 2026;

- [f] That the Municipality be authorised, through its delegated officials in terms of Council's System of Delegations, to appoint suitably qualified legal representatives for purposes of the proceedings contemplated in paragraph [e], and that such legal representatives obtain the complete record relevant to the MEC's decision, including but not limited to when the MEC obtained the BCHC Investigation Report, the internal Bitou Municipality memorandum, and the circumstances surrounding the disclosure of the Report and any waiver of privilege attaching thereto;
- [g] That Council records that its decision to institute review proceedings does not constitute an acceptance or rejection of the allegations or conclusions contained in the BCHC Investigation Report and the internal Bitou Municipality internal memorandum, and that Mr Ngubo be afforded seven (7) days to submit a comprehensive written response thereto, together with such supporting documentation as may be relevant, whereafter the Report and his response shall be placed before Council for proper consideration.

Proposer : Cllr M Gericke
Seconder : Cllr N Louw

In favour of the proposal	Against the proposal
Cllr T Matika	Cllr A Van Schalkwyk
Cllr M Khumelwana	Cllr L Davis
Cllr N Louw	Cllr P Bester
Cllr R Kakora	Cllr S Sabbagh
Cllr M Gericke	Cllr L Tyokolo
Cllr P Petros	Cllr C Vanston
Cllr B Charlie	Cllr S Campbell
Cllr R Arends	Cllr M Willems
Cllr K Andrews	
Not present at time of voting	
Cllr H Stroebe (absent with leave)	
Cllr J White	
Did not vote	
Cllr L Nohana	
Abstained from voting	

The proposal of Cllr M Gericke, seconded by cllr N Louw, was carried.

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SPECIAL COUNCIL MEETING
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MINUTES
31 AUGUST 2026

RESOLVED BY MAJORITY

- [a] That Council notes the decision of the MEC for Local Government dated 27 August 2026 refusing concurrence for the extension of Mr Boy Ngubo's terms as Acting Municipal Manager in terms of Section 54A(2A)(b) of the Local Government : Municipal Systems Act 32 of 2000, as well as the legal effect of the order of the Western Cape High court dated 20 August 2026;
- [b] That Council records that its consent to the order of 20 August 2026 preceded the subsequent introduction into the concurrence process of substantial adverse material, including the BCHC Investigation Report and the internal Bitou Municipality Memorandum, which had not at that stage been made available to or considered by Council, and that the present decision arises from the materially different circumstances which subsequently developed in the concurrence process contemplated by that order;
- [c] That Council records its concern that the aforesaid material was only furnished to the Municipality on 25 August 2026, after the Court-imposed deadline for further representations, with the Municipality being afforded until 12h00 on 26 August 2026 to respond, which did not provide Council, as a collective decision-making body, with a reasonable opportunity to properly consider a comprehensive response from Mr Ngubo, obtain any necessary advice and formulate an informed response to the newly introduced material;
- [d] That Council further records its concern that the MEC thereafter relied, as reasons for refusing concurrence, upon Council's failure to investigate and consider the newly introduced material and the absence of a comprehensive response from Mr Ngubo, being steps which Council had not been afforded a reasonable opportunity to undertake within the time permitted;
- [e] That Council resolved that the MEC's decision dated 27 August 2026 refusing concurrence be taken on review, and that the Municipality be authorised, through its delegated officials in terms of Council's System of Delegations, to take all necessary steps to institute such proceedings and to seek urgent interim and/or ancillary relief as may be legally necessary, including, to the extent required as a consequence of the subsequent developments recorded above, appropriate relief concerning the operation and effect of the order of the Western Cape High Court dated 20 August 2026;
- [f] That the Municipality be authorised, through its delegated officials in terms of Council's System of Delegations, to appoint suitably qualified legal representatives for purposes of the proceedings contemplated in paragraph [e], and that such legal representatives obtain the complete record relevant to the MEC's decision, including but not limited to when the MEC obtained the BCHC Investigation Report, the internal Bitou Municipality memorandum, and the circumstances surrounding the disclosure of the Report and any waiver of privilege attaching thereto;

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COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: 2026-210434

In the matter between:

Boy Manqoba Ngubo

Plaintiff / Applicant / Appellant

and

**MEC Western Cape, Knysna
Municipality, Bitou Municipality**

Defendant / Respondent

Notice of Intention to Oppose

NOTE: This document was filed electronically by the Registrar on 1/9/2026 at 8:10:32 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED
BY:

**Registrar of The High Court,
Western Cape Division, Cape
Town**

7

1/9/2026-8:10:32 AM

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case No: 2026 -210434

In the matter between:

BOY MANQOBA NGUBO

Applicant

and

**THE MEMBER OF THE EXECUTIVE COUNCIL FOR
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRES
AND DEVELOPMENT PLANNING, WESTERN CAPE**



KNYSNA LOCAL MUNICIPALITY

Second Respondent

BITOU LOCAL MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCHC)**

Fourth Respondent

FIRST RESPONDENT'S NOTICE TO OPPOSE

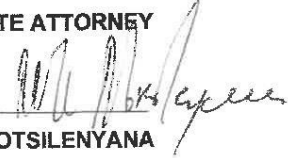
TAKE NOTICE THAT the First Respondent intends to oppose the above application has appointed the address of the State Attorney, 4th Floor, 22 Long Street, Cape Town as the address for service upon them of all notices and documents in the matter.

DATED AT CAPE TOWN ON 1 SEPTEMBER 2026.

SPECIAL COUNCIL MEETING
AGENDA
10 SEPTEMBER 2026

1/9/2026-8:10:32 AM

STATE ATTORNEY

Per: 

M MOTSILENYANA

Attorney for 1st Respondent

4th Floor

22 Long Street

CAPE TOWN

(Ref: 1524/26/P24)

Tel: 021 441 9200

E-mail:

MMotsilenyana@justice.gov.za



TO: THE REGISTRAR

High Court

PRETORIA

AND TO: HHDRS ATTORNEYS INC

Attorney for Applicant

27 Melvilles Corner

PLETTENBERG BAY

Ref: W07700

E-mail: fdp@hdrs.law.za

c/o **REBELLO KARSTEN INC**

2nd Floor, 107 Bree Street

CAPE TOWN

E-mail: ryan@rkinc.co.za

SPECIAL COUNCIL MEETING
AGENDA
10 SEPTEMBER 2026

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: 2026-210434

In the matter between:

Boy Manqoba Ngubo

Plaintiff / Applicant / Appellant

and

**MEC Western Cape, Knysna
Municipality, Bitou Municipality**

Defendant / Respondent

Other - Conditional Counter Application

NOTE: This document was filed electronically by the Registrar on 1/9/2026 at 9:57:51 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



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BY:

**Registrar of The High Court,
Western Cape Division, Cape
Town**

1/9/2026-9:57:51 AM

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case No: 2026-210434

In the counter-application between:

**WESTERN CAPE PROVINCIAL MINISTER OF
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING**

Applicant

and

**THE "ACTING MUNICIPAL MANAGER" OF THE KNYSNA
MUNICIPALITY: BOY MANQOBA NGUBO**

First Respondent

THE KNYSNA MUNICIPALITY

Second Respondent

BITOU MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCHC)**

Fourth Respondent

In re the main application between:

BOY MANQOBA NGUBO

Applicant

and

**WESTERN CAPE PROVINCIAL MINISTER OF
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING**

First Respondent

KNYSNA LOCAL MUNICIPALITY

Second Respondent

BITOU LOCAL MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCHC)**

Fourth Respondent

CONDITIONAL COUNTERAPPLICATION

STATE ATTORNEY
Per: Mamiki Motsilenyana
Tel: 021 441 9203
email: MMotsilenyana@justice.gov.za

TAKE NOTICE THAT the above-named Applicant in the counterapplication intends to make application on **Wednesday, 2 September 2026 at 10h00** or so soon thereafter as counsel for the Applicant in the counterapplication can be heard for an order in the following terms:

1. Dispensing with the Rules of Court to the extent necessary and directing that the matter be heard as one of urgency in terms of Uniform Rule 6(12)
2. Declaring the contract of employment between the First Respondent in the counterapplication with the Second Respondent in the counterapplication, dated 7 August 2026, to be void, alternatively unlawful and invalid with effect from 28 August 2026.
3. Declaring that all decisions made by the First Respondent, in the counter-application, from 28 August 2026:
 - 3.1 pursuant to the contract of employment referred to in paragraph 2 above, and
 - 3.2 pursuant to his appointment as Acting Municipal Manager by Second Respondent's Council on 7 August 2026 are unlawful and invalid.
4. Interdicting and restraining First Respondent in the counterapplication from making any further decisions as Acting Municipal Manager pursuant to the contract and appointment referred to in paragraphs 3.1 and 3.2 above.



5. That the First Respondent in the counterapplication shall pay costs of the Applicant in the counterapplication on the attorney-client scale, alternatively on the party-and-party scale, including the cost of two counsels on Scale C.
6. Further and/or alternative relief.

TAKE NOTICE FURTHER THAT the founding affidavit in the counter-application of **ANTON WILHELM BREDELL** shall be used in support of the counterapplication.

TAKE NOTICE FURTHER that the Applicant in the counterapplication has appointed the offices of **THE STATE ATTORNEY: CAPE TOWN**, at 4th Floor, 22 Long Street, Cape Town (per Mamiki Motsilenyana) as the address at which he will receive all process in this matter.



TAKE FURTHER NOTICE THAT if you intend to oppose the counterapplication, you are required to:

- (a) file a notice of opposition by **Tuesday, 1 September 2026 at 12h00** and appoint an address in such notice within 25km of the Registrar of this Court at which you will receive all process in this matter and send a copy of such notice by email to MMotsilenyana@justice.gov.za; and KBrinkhuys@justice.gov.za; and CNewman@justice.gov.za; and
- (b) deliver your answering affidavits, if any, by **Tuesday, 1 September 2026 at 12h00** and send a copy of such affidavit by email to MMotsilenyana@justice.gov.za; KBrinkhuys@justice.gov.za; and CNewman@justice.gov.za.

SPECIAL COUNCIL MEETING
AGENDA
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- (c) If these timelines are adhered to, the Applicant shall file his replying affidavit in the counterapplication and email it to any opposing Respondent(s), by no later than **17h00 on Tuesday, 1 September 2026**.

KINDLY TAKE NOTICE FURTHER that if no notice to oppose is filed, application will be made on Wednesday, **2 September 2026** at **10h00** for the relief set out above on an unopposed basis.

Dated at **CAPE TOWN** on this the **1st** day of **SEPTEMBER 2026**.

**KINDLY PLACE THE MATTER ON THE URGENT COURT ROLL (FAST LANE)
FOR 2 SEPTEMBER 2026.**



STATE ATTORNEY


MAMIKI MOTSILENYANA

Attorneys for the Applicant
in the counterapplication
4th Floor, 22 Long Street

CAPE TOWN

Ref: 1524/26/P24

MMotsilenyana@justice.gov.za

KBrinkhuys@justice.gov.za

CNewman@justice.gov.za

TO: THE REGISTRAR
High Court
CAPE TOWN

AND TO **BOY MANQOBA NGUBO**
Applicant in the Main Application
c/o **HDRS ATTORNEYS INC.**
27 Melvilles Corner
PLETTENBERG BAY
Ref: W0770
Email: fdp@hdrs.law.za
c/o **REBELLO KARSTENS INC.**
2nd Floor, 107 Bree Street
CAPE TOWN
Email: ryan@rkinc.co.za



AND TO: **THE KNYSNA MUNICIPALITY**
Second Respondent in the Main Application
c/o **THE EXECUTIVE MAYOR**
5 Clyde Street
KNYSNA
Email: mm@knysna.gov.za

AND TO: **THE BITOU MUNICIPALITY**
Third Respondent in the Main Application
c/o **THE EXECUTIVE MAYOR**
2 Sewell Street
PLETTENBERG BAY
Email: fwilliams@plett.gov.za / acroutz@plett.gov.za

AND TO: **BRADLEY CONRADIE HALTON CHEADLE ATTORNEYS (BCHC)**
Fourth Respondent in the Main Application
G04, The Gatehouse
Century Way
Century City
CAPE TOWN
Email: info@bchc.co.za

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: 2026-210434

In the matter between:

Boy Manqoba Ngubo

Plaintiff / Applicant / Appellant

and

**MEC Western Cape, Knysna
Municipality, Bitou Municipality**

Defendant / Respondent

Founding Affidavit

NOTE: This document was filed electronically by the Registrar on 1/9/2026 at 9:58:11 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED
BY:

**Registrar of The High Court,
Western Cape Division, Cape
Town**

1/9/2026-9:58:11 AM

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case No: 2026-210434

In the counter-application between:

**WESTERN CAPE PROVINCIAL MINISTER OF
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING**

Applicant

and

**THE ACTING MUNICIPAL MANAGER OF THE KNYSNA
MUNICIPALITY: BOY MANQOBA NGUBO**

First Respondent

THE KNYSNA MUNICIPALITY

Second Respondent

BITOU MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCHC)**

Fourth Respondent

In re the main application between:

BOY MANQOBA NGUBO

Applicant

and

**WESTERN CAPE PROVINCIAL MINISTER OF
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING**

First Respondent

KNYSNA LOCAL MUNICIPALITY

Second Respondent

BITOU LOCAL MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCHC)**

Fourth Respondent

FOUNDING AFFIDAVIT IN THE COUNTERAPPLICATION

I, the undersigned,



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ANTON WILHELM BREDELL

do hereby make oath and say that:

1. I am an adult male and the Western Cape Provincial Minister of Local Government, Environmental Affairs and Development Planning. I am responsible for the Department of Local Government (to which I shall refer to as "*the Department*"). The official address of the Ministry of Local Government, Environmental Affairs and Development Planning is on 9th Floor, 1 Dorp Street, Cape Town.
2. The contents of this affidavit fall within my personal knowledge and belief, unless the contrary is evident. To the best of my knowledge, the contents of this affidavit are true and correct in all respects.
3. I am duly authorised to depose to this affidavit by virtue of my position as political head and the executive authority of the Department.
4. Where I advance legal argument and submit legal conclusions in this affidavit, I do so pursuant to advice given to me by my legal representatives.
5. I am the First Respondent in the main application. The other parties are described in the main application and there is no need to repeat that here. I refer to the First Respondent in the counterapplication as "*Mr Ngobu*"; to the Second Respondent as "*the Knysna Municipality*"; to the Third Respondent as "*the Bitou Municipality*" and to the Fourth Respondent as "*BCHC*".




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6. I am advised that, in the present instance, if the decision of the Knysna Municipality's Council, taken on 7 August 2026 to appoint Mr Ngobu for another period of 3 months as Acting Municipal Manager, is invalid, then the contract of employment (Annexure "BMN8" to the founding affidavit in the main application) between the Knysna Municipality and Mr Ngobu is also invalid. Differently put, the validity of the contract of employment depends entirely on the validity of the decision to appoint Mr Ngobu as Acting Municipal Manager. If the latter falls the former falls.



7. Whilst there is not always a knock-on effect in the manner described above it is the case with unlawfully appointed municipal managers (and acting municipal managers). In this regard, section 54A(3) of the Local Government: Municipal Systems Act 32 of 2000 ("the Systems Act") provides that a decision to appoint a person as municipal manager and any contract concluded between the Municipal Council and that person is null and void if the appointment was made in contravention of the Act. In the present instance, the appointment on 7 August 2026 of Mr Ngobu was made in contravention of section 54A(2A)(b) of the Systems Act because the Provincial Minister did not approve the extension of Mr Ngobu's appointment for second period of three months (or at all). As a matter of law, once the appointment is invalid because it contravenes the Systems Act, the employment contract which resulted from the appointment is also, by operation of law, null and void.
8. However, because this Court may disagree that the invalidity of the employment contract flows automatically (as a matter of law) from the invalidity of the decision to appoint, I have instructed my legal representatives

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to bring a conditional counterapplication, in which I seek an order that the employment contract is invalid.

9. There is no basis nor reason as to why the contract of employment should be kept alive if the appointment was invalid. In this regard I refer to the reasons for my decision not to approve Mr Ngubo's appointment for a second 3-month period as Acting Municipal Manager. Those reasons are annexed marked "BMN18" to the founding affidavit. The same arguments about stability and continuity were made by the Municipality in support of the request to extend Mr Ngubo's appointment. I did not find those arguments convincing because



- 9.1. They are based on vague and generalised statements which carry little weight. Mr Ngobu has not been at the Municipality for very long, at least not in the position of Acting Municipal Manager. The Council only resolved on 30 April 2026 to appoint him as the Acting Municipal Manager, effective from 6 May 2026. Mr Ngubo can hardly have unique knowledge or unique institutional knowledge.
- 9.2. The allegations made against Mr Ngubo are extremely serious, and he has made no attempt to deal with the substance of those allegations. I am not satisfied that he is a person with the integrity required to fill the position of municipal manager.
- 9.3. There are alternatives. The Municipality could appoint Mr J Douglas as the Acting Municipal Manager for a period of three months, as was previously proposed. It is unclear on what basis it was so rejected or why Mr Douglas would be a worse appointee than Mr Ngubo.


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Alternatively, the Council may avail itself of the option set out in section 54A(6)(a) of the Systems Act and request that I second a suitable person to act in the position of Municipal Manager until such time as a suitable candidate is appointed.

10. I now turn to further relief relating to the effect of decisions of Mr Ngobo from 28 August 2026:

- 10.1. In terms of the court order granted by Mangcu-Lockwood J on 20 August 2026, the decision of the Knysna Municipality's Council taken on 7 August 2026 to appoint Mr Ngobu as Acting Municipal



Manager for a further period of three months was declared to be unlawful and invalid. The declaration of invalidity was suspended for 7 days and came into effect from 28 August 2026. From that day forward, the decision to appoint Mr Ngobu and, for the reasons set out above, were rendered null and void.

- 10.2. Mr Ngobu should not have made decisions from 28 August 2026 as Acting Municipal Manager. To be sure, any decision made by Mr Ngobu in his capacity as Acting Municipal Manager after that date (27 August 2026) is also invalid and should be declared as such.

11. Finally, Mr Ngobu should be interdicted and restrained from taking any further decisions (after the date of the order in the counter-application) as Acting Municipal Manager pursuant to the invalid appointment / employment contract. To the extent that a final interdict is sought, I submit that:

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- 11.1. I have established a clear right to the relief sought. The invalidity of the appointment results in the invalidity of the employment contract and should be declared invalid.
- 11.2. The provisions of the Systems Act referred to above, in particular my right to consider requests for an extension / appointment under section 54A(2A)(b) had been infringed. The First Respondent in the counterapplication continues to act as Acting Municipal Manager and takes decisions in that capacity pursuant to a null and void appointment and contract.
- 11.3. I have no alternative remedy but to interdict Mr Ngobu from further acting and performing as Acting Municipal Manager.
12. Turning to urgency, the counterapplication is urgent if the main application is urgent. The main application is essentially an attempt to keep an unlawfully appointee in the job on the basis of a contract which has not yet been invalidated. Should the Court hear the main application, it should hear the counter-application as well. I could not have brought the counter-application earlier. I was unaware when the previous matter was settled and the order granted by Mangcu-Lockwood J, that a contract of employment has indeed been entered into which also needed to be invalidated. It is urgent and in the interests of justice that Mr Ngobu not be allowed to cling on a technical defence such as the alleged survival of the contract in order to continue performing the vitally important role of (Acting) Municipal Manager at the Knysna Municipality.




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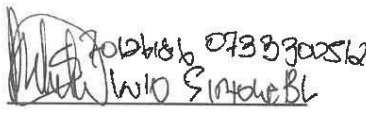
13. Finally, in respect of costs, the present application by Mr Ngobu is a brazen but ultimately hopeless attempt to escape the order granted by Mangcu-Lockwood J. Indeed, it borders on contempt of that order. In the circumstances, it is submitted that a punitive cost order against Mr Ngobu is justified.
14. In conclusion, I submit that a proper case has been made out for the relief sought in the Notice of Motion in the conditional counterapplication.



ANTON WILHELM BREDELL

I certify that:

1. The deponent acknowledged to me that:
 - 1.1. he knows and understands the contents of this declaration;
 - 1.2. he has no objection to taking the prescribed oath;
 - 1.3. he considers the prescribed oath to be binding on his conscience.
2. The deponent thereafter uttered the words, "*I swear that the contents of this declaration are true, so help me God*".
3. The deponent signed this affidavit in my presence at the address set out hereunder on this the 01 day of **SEPTEMBER 2026**.


COMMISSIONER OF OATHS

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IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: 2026-210434

In the matter between:

Boy Manqoba Ngubo

Plaintiff / Applicant / Appellant

and

**MEC Western Cape, Knysna
Municipality, Bitou Municipality**

Defendant / Respondent

Replying Affidavit

NOTE: This document was filed electronically by the Registrar on 2/9/2026 at 7:39:51 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED
BY:

**Registrar of The High Court,
Western Cape Division, Cape
Town**

2/9/2026-7:39:51 AM

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case No: 2026-210434

In the counter-application between:

**WESTERN CAPE PROVINCIAL MINISTER OF
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING**

Applicant

and

**THE ACTING MUNICIPAL MANAGER OF THE KNYSNA
MUNICIPALITY: BOY MANQOBA NGUBO**

First Respondent

THE KNYSNA MUNICIPALITY

Second Respondent

BITOU MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCHC)**

Fourth Respondent

In re the main application between:

BOY MANQOBA NGUBO

Applicant

and

**WESTERN CAPE PROVINCIAL MINISTER OF
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING**

First Respondent

KNYSNA LOCAL MUNICIPALITY

Second Respondent

BITOU LOCAL MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCHC)**

Fourth Respondent

PRELIMINARY REPLYING AFFIDAVIT IN THE COUNTERAPPLICATION

I, the undersigned,


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ANTON WILHELM BREDELL

do hereby make oath and say that:

1. I depose to the founding affidavit.
2. The contents of this affidavit fall within my personal knowledge and belief, unless the contrary is evident. To the best of my knowledge, the contents of this affidavit are true and correct in all respects. Where I advance legal argument and submit legal conclusions in this affidavit, I do so pursuant to advice given to me by my legal representatives.
3. I use the same abbreviations and descriptions as in my founding affidavit.
4. I shall deal very briefly with the contents of the Applicant's unsigned answering affidavit delivered in the afternoon of 1 September 2026. My reasons for doing so are as follows:
 - 4.1. The answering affidavit is unsigned and not evidence before this Court.
 - 4.2. I do not have time to reply in great detail, as I am required to attend to the answering affidavit of Part A, due to the absurdly short time periods for the filing of affidavits set in the main application.
 - 4.3. This is accordingly a preliminary replying affidavit in which a few pertinent issues are addressed.




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5. Ad paragraph 4 thereof

A contract cannot be declared invalid *pendente lite*. It is either valid or not. If invalid, it disposes of one of the grounds that Mr Ngubo relies on in support of his Part A relief.

6. Ad paragraph 5 thereof

The main application is in effect also an application for final relief.



7. Ad paragraphs 10 and 47 thereof

The fact that the Municipality also intends to bring an urgent application is reason enough why the present application should not be heard and decided on its own. It may result in an issue estoppel. The two applications must obviously be heard together.

8. Ad paragraphs 15 to 19 thereof

The counter-application is urgent because Mr Ngubo now relies on the factual existence of the contract to continue to act as the acting Municipal Manager. If the contract is not invalidated, he will continue to do so.

9. Ad paragraph 22 thereof

Mr Ngubo demonstrably does not accept that the Order is binding on him, and he acts in defiance of it. He was responsible (or co-responsible with the Speaker) for sending the invite and agenda and determining the extent to


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which the ordinary periods for giving notice should be reduced. See the copy of the invitation annexed as "WC RA1". He also continues to attend meetings at the Municipality even though he is no longer in their employ.

10. Ad paragraph 69 thereof

I invite Mr Ngubo to explain to this Court how, when and who was appointed as the Acting Municipal Manager on a short-term basis as claimed herein.

11. Ad paragraph 80 thereof



It is unclear whether or not Mr Ngubo confirms that he has taken decisions after 27 August 2026 or not. There is doublespeak on this issue.

Conclusion

12. In conclusion, I submit that a proper case has been made out for the relief sought in the Notice of Motion in the conditional counterapplication.


ANTON WILHELM BREDELL

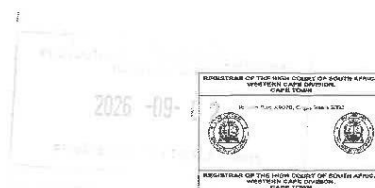
I certify that:

1. The deponent acknowledged to me that:
 - 1.1. he knows and understands the contents of this declaration;
 - 1.2. he has no objection to taking the prescribed oath;



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WFO Single
COMMISSIONER OF OATHS



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SPECIAL COUNCIL MEETING
AGENDA
31 AUGUST 2026

WC RA1



Knysna

Municipality • Munisipaliteit • uMasiipela
INCLUSIVE, INNOVATIVE, INSPIRED.

Clyde Street
Knysna
6570

Clydestraat
Knysna
6570

iClyde
eKnysna
6570

PO Box 21
Knysna
6570

Posbus 21
Knysna
6570

Posbus 21
Knysna
6570

Tel: +27 44 302 6300
Fax: +27 44 302 6333

Tel: +27 44 302 6300
Faks: +27 44 302 6333

Umnxeba: +27 44 302 6300
Ifeksi: +27 44 302 6333

Notice is hereby given, in terms of Section 19(b) of the Local Government: Municipal Systems Act, 32 of 2000 as amended, that a **SPECIAL MEETING of the MUNICIPAL COUNCIL** of Knysna Municipality will be held on Microsoft Teams on **MONDAY, 31 AUGUST 2026 at 10:00** to consider the business set forth in the attached agenda.



Kennis geskied hiermee as gevolg van Artikel 19(b) van die Plaaslike Regering : Munisipale Stelsels Wet, 32 van 2000, dat 'n **SPEZIALE VERGADERING** van die **MUNISIPALE RAAD** van Knysna Munisipaliteit op Microsoft Teams op **MAANDAG, 31 AUGUSTUS 2026 om 10:00** gehou sal word ten einde sake soos uiteengesit in die aangehegte agenda te oorweeg.

Ibhunga lika**MASIPALA** waseKnysna lazisa ngomthetho okwisoloty 19(b) wenkqubo mqaqo olawula oMasipala, 32 of 2000, njengoko utshintshiwe, **NGENTLANGANISO EKHETHEKILEYO** ye**BHUNGA** lika**MASIPALA** waseKnysna eyakubanjelwa ku Microsoft Teams - **NGOMVULO, NGOMHLA WE 31 EYETHUPHA 2026** ngentsimbi ye **10:00** umba iyakuba lushishino oluchazwe kwi-agenda.

CLLR M WILLEMSE
The Speaker
Die Speaker
Usomlomo

MR BOY NGUBO
Acting Municipal Manager
Waarnemende Munisipale Bestuurder
Mphathi kaMasipala

Date : 28 August 2026

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AGENDA

1. OPENING AND WELCOMING
2. SILENT PRAYER
3. ATTENDANCE OF MEMBERS
 - 3.1 COUNCILLORS PRESENT
 - 3.2 COUNCILLORS WITH LEAVE
 - 3.3 COUNCILLORS WITHOUT LEAVE
4. NOTING OF THE PROVISIONS OF CODE OF CONDUCT FOR COUNCILLORS AND CODE FOR ETHICAL LEADERSHIP AS ADOPTED BY COUNCIL
5. DISCLOSURE OF INTERESTS BY COUNCILLORS



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6. **NEW MATTERS SUBMITTED BY THE MUNICIPAL MANAGER**

6.1

SC01/08/26 CONSIDERATION OF THE DECISION BY THE MEC FOR LOCAL GOVERNMENT TO REFUSE CONCURRENCE FOR THE EXTENSION OF THE APPOINTMENT OF MR B NGUBO AS ACTING MUNICIPAL MANAGER

REPORT FROM THE EXECUTIVE MAYOR

PURPOSE OF THE REPORT

To inform Council of the formal decision by MEC, Mr. Anton Bredell, to refuse concurrence for the further extension of Mr. Boy Ngubo's appointment as Acting Municipal Manager for an additional period of three months. A copy of the letter from MEC Bredell is attached hereto, marked C. This report outlines the implications of this refusal in terms of Section 54A(2A)(b) of the Local Government: Municipal Systems Act, Act 32 of 2000 and presents the available options to Council for an urgent decision to ensure administrative continuity.



BACKGROUND AND LEGAL FRAMEWORK

Council previously resolved to extend Mr. Ngubo's term to maintain administrative stability, as the substantive Municipal Manager, Dr Mapholoba is currently suspended. The MEC indicating in writing that he is withholding his decision and inquired as whether Council is aware of a pending criminal investigation by the DPCI (HAWKS) into matters whilst Mr Ngubo was in the employ of Bitou Municipality. The MEC requested Council to obtain information from Bitou Municipality pertaining to the nature of the allegations levelled against Mr Ngubo and the status of the criminal investigations.

The Municipality enquired from Bitou Municipality regarding the nature of the allegations but was unsuccessful in obtaining the necessary information.

It should be noted that the Court Order by agreement between the parties in the high court matter of MEC for Local Government and Knysna Municipality, it was specifically ordered that the MEC must decide regarding concurrence or non-concurrence before the close of business on 27 August 2026. The MEC addressed correspondence to the Municipality on 21 August 2026 which had attached thereto an Investigation Report commissioned by Bradley Conradie Attorneys on behalf of Bitou Municipality in 2024, a copy of the letter is attached hereto, marked A. In the letter the MEC indicated that the Municipality may comment if it so wishes by 12h00, Monday 24 August 2026. The Municipality did respond to the letter from the MEC, and same is attached hereto, marked B.

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OPTIONS OPEN TO COUNCIL

• **Option 1**

Council review and rescinds Mr. Ngubo's extension and immediately appoints another internal senior manager, or an external person (who meets the requirements) for a new 3-month term;

• **Option 2**

Council authorizes the Executive Mayor to write to the MEC for Local Government in the Province to second a suitable and qualified official to the municipality as municipal manager.

RECOMMENDATION

- [a] That Council takes note of the correspondence from the MEC for Local Government, Mr Anton Bredell, refusing concurrence for the extension of Mr Boy Ngubo's term as Acting Municipal Manager in terms of Section 54A(2A)(b) of the Local Government: Municipal Systems Act, Act 32 of 2000.
- [b] That Council approves **Option 1** or **Option 2** to ensure statutory compliance and prevent administrative collapse.
- [c] That Council authorizes the Executive Mayor to communicate the decision of Council to MEC for Local Government.



APPENDIX / ADDENDUM

Annexure A: Letter from MEC to the Executive Mayor, dated 25 August 2026
Annexure B: Letter from the Executive Mayor to MEC, dated 26 August 2026
Annexure C: Letter from MEC dated 27 August 2026

File Number: 9/1/2/14
Execution: Acting Director: Corporate Services

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Ministry of Local Government,
Environmental Affairs & Development Planning

Tel: +27 21 483 3915
Fax: +27 21 483 6081

REFERENCE: 13/3/12/K12 (2026/131 - 3/11/2/16)

The Executive Mayor
Knysna Municipality
PO Box 21
KNYSNA
6570
Per email: tmatika@kn.sna.gov.za

Dear Councillor Matika



RE. APPLICATION FOR CONCURRENCE: EXTENSION OF THE ACTING APPOINTMENT OF MR BOY NGUBO AS MUNICIPAL MANAGER, KNYSNA MUNICIPALITY IN TERMS OF SECTION 54A(2A)(b) OF THE MUNICIPAL SYSTEMS ACT, ACT 32 OF 2000

1. We acknowledge receipt of your application, dated 6 August 2026, which was received on 24 August 2026. In your application you state that (my underlining):

"Council remains mindful of the concerns previously raised regarding the matter under investigation by the HAWKS arising from Mr Ngubo's previous employment at Bitou Municipality.

Council has taken these concerns seriously and, following your request, has made enquiries with both Bitou Municipality and the HAWKS. At the date of this submission, neither institution has provided Council with substantive information concerning the nature of the alleged conduct under investigation or any material development in the investigation.

Council further notes that, in your founding affidavit in the recent High Court proceedings, you confirmed that the investigation remains ongoing and that Mr Ngubo has not been charged.

A Priority Criminal Check conducted in respect of Mr Ngubo on 11 August 2026 returned an outcome of "Clear", with no previous convictions or case awaiting trial identified.

Council therefore acknowledges and has taken into account the existence of the ongoing investigation. It is, however, not presently in possession of information establishing any criminal charge, pending criminal case or adverse finding against Mr Ngubo.

APPLICATION FOR CONCURRENCE: EXTENSION OF THE ACTING APPOINTMENT OF MR BOY NGUBO

www.westerncape.gov.za

9th Floor, 1 Dorp Street, Cape Town, 8001 | Private Bag X7186, Cape Town, 8002.

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Council will continue to monitor the matter and, should any material information become available which reasonably affects Mr Ngubo's suitability or ability to continue acting, Council will consider that information without delay and take such lawful action as may be warranted."

2. I note further that you contend that neither the Hawks nor the Bitou Municipality has provided you with the substantive information concerning the nature of the alleged conduct.
3. I am privy to the contents of a Bitou Municipality memorandum, dated 9 September 2024 and an Investigation Report on Mr Boy Ngubo by BCHC Inc Attorneys, dated 15 November 2024. These documents are annexed hereto. As there may be a dispute about whether or not legal privilege attach to the latter, I obtained a waiver of privilege by the Bitou Municipality.
4. The documents contain substantive information regarding Mr Ngubo's conduct which I will consider in making my decision about whether to extend his period of Acting Municipal Manager.
5. You are afforded until **12h00 on Wednesday, 24 August 2026** to comment on the contents of the documents, should you wish to do so.



Sincerely,

A BREDELE
MINISTER
DATE: 25 AUGUST 2026

APPLICATION FOR CONCURRENCE: EXTENSION OF THE ACTING APPOINTMENT OF MR BOY NGUBO

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ENDORSED TO:

Councillor Mark Willemse	mwillemse@knysna.gov.za
Councillor Marton Gericke	mgericke@knysna.gov.za
Councillor Beauty Charlie	bcharlie@knysna.gov.za
Councillor Kay Andrews	kandrews@knysna.gov.za
Councillor Russel Arends	rarends@knysna.gov.za
Councillor Richard Kakara	rkakara@knysna.gov.za
Councillor Cleone Vanston	cvanston@knysna.gov.za
Councillor Mboneli Khumelwana	mkhumelwana@knysna.gov.za
Councillor Neil Louw	nlouw@knysna.gov.za
Councillor Sharon Saboagh	ssaboagh@knysna.gov.za
Councillor Pindile Petros	ppetros@knysna.gov.za
Councillor Hilton Straebel	hstraebel@knysna.gov.za
Councillor Jason White	jwhite@knysna.gov.za
Councillor Levael Davis	ldavis@knysna.gov.za
Councillor Luzuko Tyokolo	ltyokolo@knysna.gov.za
Councillor Peter Bester	pbester@knysna.gov.za
Councillor Susan Campbell	sucam@pweb.co.za
Councillor Lukhanyiso Nohana	lnohana@knysna.gov.za
Councillor Andre van Schalkwyk	avanschalkwyk@knysna.gov.za



APPLICATION FOR CONCURRENCE: EXTENSION OF THE ACTING APPOINTMENT OF MR BOY NGUBO
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Collab. Ref.: 3047681
File Ref.: NGUBO, BM
Your Ref: 13/3/1/2/1K12 (2026/131-3/11/2/16)

2026-08-06/L

Ministry of Local Government, Environmental Affairs & Development Planning
9th Floor
1 Darp Street
CAPE TOWN
8001



Per: email: anton.bredell@westerncape.gov.za
azaria.babu-Rosekram@westerncape.gov.za

Dear Minister Bredell

RE: APPLICATION FOR CONCURRENCE; EXTENSION OF THE ACTING APPOINTMENT OF MR BOY NGUBO AS MUNICIPAL MANAGER, KNYSNA MUNICIPALITY IN TERMS OF SECTION 54A(2A)(b) OF THE MUNICIPAL SYSTEMS ACT, ACT 32 OF 2000

Your letter dated 25 August 2026 refers.

Having carefully considered the contents of the BCHC report, it is our respectful submission that substantial procedural, evidentiary and legal deficiencies appear therefrom. These deficiencies materially diminish the reliability and probative value of the report and, in our view, substantially weaken any reliance thereon, as a basis to determine Mr Ngubo's fitness for continued appointment.

Procedural Fairness Concerns

A significant concern arises from the apparent failure to afford Mr Ngubo a meaningful opportunity to respond to the evidence ultimately relied upon against him before adverse findings were made. The report records interviews with various municipal officials, yet there is no indication that Mr Ngubo was interviewed regarding the substantive allegations, witness evidence, forensic findings, plagiarism allegations or adverse inferences subsequently drawn by the investigators.

Please address all correspondence to the Municipal Manager and quote the above reference
P O Box 21 • Knysna • 6570 • Tel: 044 302 6360 • Fax: 044 302 6333 • E-mail: Knysna@knysna.gov.za

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Instead, the report appears to rely substantially on a response furnished by Mr Ngubo in the context of a suspension process, prior to the completion of the investigation and before he could have knowledge of the evidence eventually relied upon against him. Serious findings affecting his credibility, honesty, motives and intentions were thereafter made without affording him a proper opportunity to address those allegations.

In our respectful view, this raises a material concern regarding compliance with the *audi alteram partem* principle, a foundational requirement of procedural fairness. The absence of a fair opportunity to respond to specific allegations and evidence undermines the integrity of the conclusions reached.

Evidentiary Concerns

The report contains numerous findings and recommendations resting upon inference, speculation and subjective characterisation rather than proven fact. Various conclusions are prefaced by phrases such as "It is possible", "presumably", or by witness accounts based upon what individuals were told by others, yet these matters are subsequently treated as established factual findings.

Of further concern is the investigators' reliance upon the absence of certain electronic communications following what the report itself describes as a " cursory review" of electronic devices. Such absence of evidence appears to have been elevated into positive proof of wrongdoing, notwithstanding the limited scope of the review undertaken.

The report further attributes improper motives to Mr Ngubo, including suggestions that transactions were intentionally structured to avoid scrutiny. These findings do not appear to be supported by direct evidence and were apparently never put to Mr Ngubo for comment before the report was finalised.



Please address all correspondence to the Municipal Manager and quote the above references
P O Box 21 • Knysna • 6570 • Tel: 044 302 6398 • Fax: 044 302 6333 • E-mail: Knysna@knysna.gov.za

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Concerns Regarding the Classification of Expenditure

The report repeatedly characterises expenditure relating to GG&G Consulting Engineers as constituting "irregular, unauthorised, fruitless and wasteful expenditure". However, these are separate statutory concepts under the Municipal Finance Management Act, each with its own legal requirements and consequences.

The report does not appear to undertake the necessary discrete analysis required to support each classification. In particular, the findings relating to unauthorised expenditure are complicated by inconsistent internal evidence concerning budget allocations and journal entries, whilst the conclusion that the expenditure was fruitless and wasteful appears to rest predominantly upon an internal comparative assessment undertaken by the investigators themselves.

In these circumstances, it is not apparent that the legal requirements necessary to sustain each classification have been properly established.

Internal Inconsistencies in the Report

The report contains what appear to be material inconsistencies concerning the issue of knowledge and intent. On the one hand, the report expressly states that whether Mr Ngubo knew of the alleged plagiarism is immaterial to the misconduct findings. On the other hand, the report recommends referral of the matter for criminal investigation in relation to alleged fraud. Fraud ordinarily requires proof of knowledge and intention. These two positions are difficult to reconcile.

Such inconsistencies are significant given the serious nature of the recommendations advanced by the investigators, including disciplinary action, civil recovery proceedings and criminal referral.

Considerations Relevant to the Acting Appointment

Importantly, the purpose of determining whether concurrence should be granted for a continued acting appointment is not to finally determine guilt or innocence in respect of contested allegations. Rather, it requires a rational assessment of whether there exists a sufficiently reliable factual foundation demonstrating that the appointment would be inappropriate.

Please address All correspondence to the Municipal Manager and quote the above reference
P O Box 21 - Kaysna - 6570 - Tel: 044 362 6300 - Fax: 044 362 6333 - E-mail: Kaysna@kaysna.gov.za



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In the present instance, the concerns raised above suggest that the BCHC report may not, in its current form, provide such a reliable factual foundation. The report remains susceptible to challenge on procedural, evidentiary and substantive grounds.

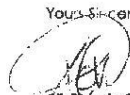
Knysna Municipality has previously addressed correspondence to your office setting out the operational necessity for Mr Ngubo's continued acting appointment and the measures intended to mitigate any perceived risks pending finalisation of any appropriate processes. The analysis of the BCHC report demonstrates that the allegations against Mr Ngubo remain far from conclusively established and should accordingly be approached with due caution.

In light of the above, it is submitted that the BCHC report, viewed objectively, contains material deficiencies which render reliance upon it as the principal basis for refusing concurrence problematic.

We accordingly request that due consideration be given to the procedural shortcomings, evidentiary concerns and legal deficiencies identified above, together with the operational interests of the Knysna Municipality, and that concurrence for the continued acting appointment of Mr Boy Ngubo be favourably considered.

We trust that the contents of this correspondence will receive your careful consideration and remain available to provide any further information your office may require.

Yours Sincerely,



Mr Thando C. Malika.

Executive Mayor



Please address all correspondence to the Municipal Manager and quote the above reference
P O Box 21 · Knysna · 6570 · Tel: 044 302 6300 · Fax: 044 302 6333 · E-mail: Knysna@knysna.gov.za

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- 7 IN COMMITTEE (None)
- 8. ADJOURNMENT

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IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: 2026-210434

In the matter between:

Boy Manqoba Ngubo

Plaintiff / Applicant / Appellant

and

**MEC Western Cape, Knysna
Municipality, Bitou Municipality**

Defendant / Respondent

Answering Affidavit

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BY:

**Registrar of The High Court,
Western Cape Division, Cape
Town**

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**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case No: **2026-210434**

In the matter between:

BOY MANQOBA NGUBO

Applicant

and

**WESTERN CAPE PROVINCIAL MINISTER OF
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
AND DEVELOPMENT PLANNING**



First Respondent

KNYSNA LOCAL MUNICIPALITY

Second Respondent

BITOU LOCAL MUNICIPALITY

Third Respondent

**BRADLEY CONRADIE HALTON CHEADLE
ATTORNEYS (BCHC)**

Fourth Respondent

PRELIMINARY ANSWERING AFFIDAVIT

I, the undersigned,

ANTON WILHELM BREDELL

do hereby make oath and say that:

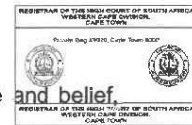
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A. INTRODUCTION

1. I am an adult male and the Western Cape Provincial Minister of Local Government, Environmental Affairs and Development Planning. I am responsible for the Department of Local Government (to which I shall refer to as "*the Department*"). The official address of the Ministry of Local Government, Environmental Affairs and Development Planning is on 9th Floor, 1 Dorp Street, Cape Town.



2. The contents of this affidavit fall within my personal knowledge and belief, unless the contrary is evident. To the best of my knowledge, the contents of this affidavit are true and correct in all respects.
3. I am duly authorised to oppose the application and to depose to this affidavit by virtue of my position as political head and the executive authority of the Department.
4. Where I advance legal argument and submit legal conclusions in this affidavit, I do so pursuant to advice given to me by my legal representatives.

B. THE PARTIES

5. I am the First Respondent in the main application.
6. The other parties are described in the founding affidavit in the main application and there is no need to repeat those descriptions here. I refer to the Applicant as such or as "*Mr Ngubo*"; to the Second Respondent as "*the Municipality*"; to

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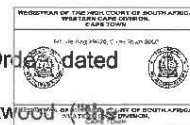
the Third Respondent as "*the Bitou Municipality*" and to the Fourth Respondent as "*BCHC*".

C. NATURE OF THE APPLICATION

7. The application comprises of two parts.

8. In Part A, the Applicant:

8.1. Seeks a "*stay*" of paragraphs 1 and 2 of a Court Order dated 20 August 2026, granted by Ms Justice Mangcu-Lockwood (the "*Order*") and a "*stay*" of my decision not to approve that extension of Mr Ngubo's term of office as Acting Municipal Manager ("*Acting MM*") by another three months. This relief is sought pending Part B and the relief is sought under Uniform Rule 45A. I shall refer to this relief as the "*stay relief*".



8.2. Seeks an order that First to Third Respondents and anyone acting through them are sought to be interdicted and restrained from implementing my decision not to extend, pending Part B. I shall refer to this relief as the "*interdictory relief*".

8.3. Seeks that the *status quo* prior to 27 August 2026 is sought to be "*preserved*", i.e. Mr Ngubo wants to be restored as Acting MM. This is the "*substitution relief*".

9. In Part B, the Applicant seeks to *inter alia* review and set aside my decision, dated 27 August 2026, which was not to approve the extension of Mr Ngubo's


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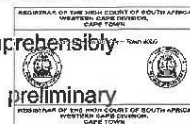
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term as Acting MM, which decision was taken in terms of the discretion conferred on me by section 54A(2A)(b) of the Local Government: Municipal Systems Act 32 of 2000 (**"the Systems Act"**). I shall refer to this as the **"Part B review"**.

D. LEGAL DEFENCES

10. I now turn to set out a number of legal defences to the Part A application. For the reasons set out below, these and the facts could not be comprehensively addressed in the time available to me. This is accordingly a preliminary answering affidavit.



(i) Lack of urgency

11. This application is not urgent, despite Mr Ngubo's allegations to the contrary.
12. The question that Mr Ngubo must answer is why it is necessary to appoint him, with the serious allegations of tender irregularities raised against him arising from his employment as Chief Financial Officer (**"CFO"**) Bitou Municipality, as Acting MM for another three months? Why is it so urgent that he must be retained?
13. There are alternatives. Mr J Douglas is an option as the record shows. Also, I can be requested to second someone to the Municipality under section 54A(6) of the Systems Act. There need not be a vacancy in the position of Acting MM for long.


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14. It is in any event not super urgent for someone to be appointed as Acting MM.
It will certainly be possible for me to second a person to the position of Acting MM.

15. Given the above, Mr Ngubo is driven to rely on the financial losses to himself and ostensibly to the Municipality should he not be allowed to serve a further 3-month period as the acting MM of the Municipality. Financial losses do not equate to urgency. Mr Ngubo can claim his salary in CCMA proceedings if the refusal to extend his contract has been unlawful. This issue ~~hardly~~ needs to be addressed on a super urgent basis, nor do any losses, self-incurred by the Municipality need to be dealt with on super urgent basis.



16. Also, there is no reason why the review cannot be determined on an expedited basis and if successful, Mr Ngubo can then contend that he should be instated for a second period of three months (minus the time he has already served, as explained below).

17. In short, Mr Ngubo is capable of obtaining redress in the ordinary course, which could involve an expedited review, civil action or labour court intervention. He can obtain relief against the Municipality who entered into the contract of employment with the Applicant. Urgent relief should be declined if substantial redress is available in the ordinary course.

18. In any event, even if there is an element of urgency, that does not justify setting the matter down on two days' notice, without prior warning and on patently unreasonable timelines for the filing of answering affidavits and heads of argument.


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19. The severe truncation of the normal timelines, which are totally unjustified in the present circumstances, not only prejudices the Respondents but also the Court. The Court can hardly prepare for hearing a bulky application with answering affidavits and replying affidavits flying in during the afternoon before the hearing.
20. The truncation was not only unjustified but also rendered inoperable by the Applicant's own conduct. Without any forewarning, the Applicant emailed this application to the State Attorney on or about 10h00 on  Monday, 31 August 2026, requiring that answering affidavits be filed by the Respondents by 08h00 on Tuesday, 1 September 2026. But then the annexures to the founding affidavit, access to Caselines, and an index were only made available during the afternoon, basically leaving it to my legal representatives to compile this affidavit during the night and today. In the circumstances, the facts and background cannot be properly set out in this affidavit. My legal representatives and I will need much more time to do so. It must be borne in mind that I am bringing a counter-application which was sent off early in the morning of 1 September 2026. Needless to say, it will not be possible for answering and replying affidavits and heads to be compiled in respect of that counter application before the hearing of the matter on 2 September 2026 at 10h00.
21. On top of it all, the application, whilst cast as an interim interdict, is in fact an application for final relief. I say this because Mr Ngubo has served 19 days of the additional three months that he claims to be entitled to (he already served from 8 to 27 August 2026). This means that he is contending for little more 

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than 2 months and one week additional time. That period takes one to the first week in November 2026. The review will not be determined by then. The Applicant has in any event not sought a date for the review or a timetable. The review will be moot by the time it is heard. I am however prepared to agree to any reasonable abbreviated timelines for the determination of the review.

22. The current application is indeed an abuse of court processes and designed to frustrate my constitutional and statutory oversight role in respect of local government in the Western Cape province, and specifically the Municipality in this instance.



23. In the circumstances, I ask for the matter to be struck off the roll for lack of urgency and because the extremely short timelines set in the notice of motion are not justified in the circumstances of this case.
24. I will not object to reasonable timelines for the determination of Part A. But it will be contended on my behalf that this matter is not capable of being heard in the fast lane as it will undoubtedly take more than ½ a day to be argued. The papers are bulky. The founding papers alone exceed 200 pages. Practice Directive 20(3) require the parties, in a matter such as the present one, to approach the Judge President for directions regarding the hearing of the matter, i.e. the allocation of a Judge dedicated to hear this application.


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(ii) In effect final relief

25. The consequence of the application being in effect, an application for final relief is that none of the relief sought in Part A can be granted. There can be no stay, no interdict and no *status quo* relief. As explained above, if Part A is granted, Mr Ngubo will undoubtedly serve out the remainder of his second term before Part B is heard. Part B will then be moot.

26. Mr Ngubo is of course aware of this and this is the reason why he has elected not to bring Part B on an urgent basis.



27. I would however have no objection to a reasonable timetable for the hearing of Part B.

28. In any event, none of the requirements for final relief are addressed let alone met in the founding papers as they stand. The record of my decision on 27 August 2026 is not before the Court. The Applicant is precluded from arguing for final relief at the hearing because Part B of the application has not been enrolled for that day.

(iii) Rule 45A does not apply in the present instance

29. In paragraph 2 of the notice of motion, the Applicant seeks an order staying the Order granted by Mangcu-Lockwood on 20 August 2026.


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30. Rule 45A reads as follows:

"45A Suspension of orders by the court

The court may, on application, suspend the operation and execution of any order for such period as it may deem fit: Provided that in the case of an appeal, such suspension is in compliance with section 18 of the Act."

31. The present application is not for the suspension of the "operation" or "execution" of an order. The Order granted by Mangcu-Lockwood J on 20 August 2026 have been fully implemented. There is nothing left that can be "stayed".



32. In the scheme of Rule 45, 45A and 46, it is evident that Rule 45A is not applicable to an order such as the one granted by Mangcu-Lockwood J, which is in effect a roadway to a decision. There is no imminent execution which is sought to be stayed that will result in "real and substantial injustice".
33. It is with respect absurd to contend that the Applicant will suffer injustice by the Order in proceedings where he chose to abide, even though he must have known what the outcome was going to be, given that the Order was granted by agreement. Quite obviously, the Applicant was hedging his bets. He abided because he hoped that my decision may go in his favour. But when that did not happen, he decided to effectively overturn the Order. That cannot be countenanced. It would make a mockery of the Rules. In any event, no "real and substantial injustice" results from the Order. The Applicant is merely prevented from serving as Acting MM. Even on his own version this will only last until Part B is determined or when the second appointment comes to an


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end. It is merely a salary which he would not get until he successfully claim for a payout in the CCMA.

(iv) No case made out for the interdictory relief

34. In paragraph 3 of the notice of motion, the Application seeks an order that my decision of 27 August 2026 not to extend his second period of serving as Acting MM should be "*stayed*". In paragraph 4, the First to Third Respondents are to be prohibited from "*implementing*" my decision of 27 August 2026.



35. It is not clear whether this relief is claimed under Rule 45A (which is clearly not applicable to government decisions) or otherwise. I shall assume the latter and that which is in effect sought is an interim interdict.

36. Again, the suspension or interdict against the implementation of my decision will have no effect. It will not assist the Applicant. In terms of paragraph 1 of the Order, the Applicant's appointment as Acting MM became invalid with effect from 27 August 2026. No suspension or interdict can undo that.

(v) An interdict cannot undo past events

37. In paragraph 5 of the notice of motion, the Applicant seeks to turn the clock back. He asks for restoration of the position he was in prior to 27 August 2026.

38. The short answer to that is that an interdict must be aimed at future conduct. It is not aimed at reversing that what has already happened, which is what the Applicant is trying to achieve.


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39. In any event, if the Applicant is to be placed in the position he was in before my decision, he would effectively be reinstated, i.e. my decision is sought to be temporarily "*substituted*" for a decision to extend his appointment to a second term. No case has been made out for such relief nor can a case be made out for such a temporary substitution.

(vi) The Applicant's reliance on his employment contract

40. As a different basis (seemingly unrelated to the relief sought in the notice of motion) the Applicant contends that he entered into an employment contract with the Municipality on 7 August 2026 and that this contract has not been set aside (even though his appointment has been set aside in the Order).



41. I deal with this aspect in the counterapplication.
42. I explain in my affidavit in support of the counterapplication that if the decision of the Knysna Municipality's Council, taken on 7 August 2026 to appoint Mr Ngubo for another period of 3 months is invalid, then the contract of employment concluded with him on the same day (7 August 2026), is also invalid. This is because of section 54A(3) of the Systems Act which provides that a decision to appoint a person as municipal manager and any contract concluded between the Municipal Council and that person is null and void if the appointment was made in contravention of the Systems Act. In the present instance, the appointment on 7 August 2026 of Mr Ngubo was made in contravention of section 54A(2A)(b) of the Systems Act because I did not approve the extension of Mr Ngubo's appointment for second period of three months (or at all). As a matter of law, once the appointment is invalid because


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It contravenes the Systems Act, the employment contract which resulted from the appointment is also, by operation of law, null and void.

43. However, because this Court may disagree that the invalidity of the employment contract flows automatically (as a matter of law) from the invalidity of the decision to appoint, I have instituted a conditional counterapplication, in which I seek an order that the employment contract is invalid. As explained in the counterapplication, there is simply no basis or reason why the contract of employment should be kept alive if the appointment was invalid.



(vii) Procedural fairness

44. The Courts, I am advised often refers to the "*ever flexible*" duty to afford an affected person procedural fairness.
45. The Applicant has elected not to rely on the Promotion of Administrative Justice Act 3 of 2000 ("**PAJA**") on this aspect of his case. Instead, as recorded in para 218 of the founding affidavit, he relies on "*procedural irrationality*". The question is then whether the process adopted by me to determine whether I should approve the extension of the Applicant's appointment, is procedurally irrational.
46. As already stated, procedural fairness is extremely context related. I have not been afforded sufficient time to deal with that context. The best I can do is to refer to the factual background and the multiple invitations which have been


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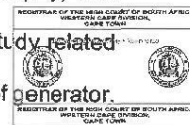
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afforded to the Applicant to provide his version in respect of the serious allegations made against him.

47. As to those allegations:

47.1. Firstly, it is not seriously disputed that no proper procurement process was followed in respect of either GG&G Consulting Engineers (Pty) Ltd or ZWH Projects and Development (Pty) Ltd.

The GG&G process related to some kind of feasibility study related to the airport and the ZWH project related to the purchase of a generator.



Both processes were initiated by Mr Ngubo during his tenure as Acting Director of Planning and Development and after transitioning to the role of Acting CFO on 1 June 2024. Mr Ngubo continued to control these transactions rather than hand them over to his successor. Both transactions exceeded R1 million. GG&G was paid R1 430 370.00 and ZWH Consulting invoiced R12 489 205.09 but was not paid. The GG&G invoices were without any narrations on a work schedule of what work had gone into producing the product and the hours it took to complete with accompanying rates. There was no accompanying documentation or work schedule specifying the purpose of the "business advisory services". The report prepared by GG&G Consulting Engineers was unnecessary, as the airport business had already been sold to a private company through a valid tender process two years prior. The GG&G report was never commissioned by the Municipality. Ultimately, Mr Ngubo signed off on the GG&G invoices for payment, and he expedited the payment

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through year-end processing to push the transaction through unnoticed. The GG&G report was largely plagiarized and based on ludicrous assumptions. I deal with this further in my reasons for not extending Mr Ngubo's appointment.

- 47.2. Secondly, Mr Ngubo engaged ZWH for generators despite the fact that new generators were not necessary as the Municipality had a floating generator for emergency use and loadshedding had ceased making the purchase unnecessary.



48. As per his response at Bitou (copy of same annexed as “WCAA1”) he does not dispute the above, but claims that he signed off on payment to GG&G because he was instructed to do so by the then Municipal Manager at Bitou (Ralph Links). In other words, what he says is that he was just implementing orders from above. This is not the kind of person who should be considered for the position of an Acting MM. He further asked not to be suspended because his contract ended. Basically, Mr Ngubo left Bitou under a very dark cloud. He signed off on a massive payment for a service that was not required and where no procurement process was followed.
49. For present purposes, it is important to note that when he was given a chance to deal with the serious allegations against him, he refused to provide a substantive response. The above was the first opportunity given to him to put up his version. He refused to make use of it.
50. The second series of opportunities given to him to state his case (this time by me) are contained in letters I wrote to the Knysna Municipality to get to the

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bottom of these allegations. If the Knysna Council was going to ask for an extension of his appointment, they should have made the necessary enquiries.¹ What happened was that:

50.1. On or about 30 April 2026, my office received an email correspondence from the Knysna Municipality, wherein it indicated that the Council had resolved, on 30 April 2026, to appoint Mr Ngubo as the Acting MM of the Municipality. I could not ~~veto his~~ appointment but pointed out that Mr Ngubo was suspended by the Bitou Municipality during his tenure as the acting chief financial officer, and that he resigned prior to the institution of disciplinary action against him. Despite his resignation, and indicative of the seriousness of the allegations against him, the Bitou Municipality laid a criminal complaint against Mr Ngubo with the Directorate for Priority Crime Investigations, in George, under CAS 148/11/2024. I requested that the Council take due note of this information. It was clear from the outset that I considered this to be a serious concern. Mr Ngubo would have been aware of that.



50.2. On 14 July 2026, the Knysna Council passed a resolution to extend the acting position of Mr Ngubo as Acting MM for another period of 3 months. On 29 July 2026 correspondence was sent on my behalf to the Council. I stressed again, the need for the Council to consider the reasons from Mr Ngubo's departure from Bitou and the criminal investigation conducted by the Hawks. Council was the requester

¹ All the documents referred to have been attached to the founding affidavit in this matter.


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for the extension and they should have investigated the matter and presented me with the result and Mr Ngubo's response, if any. This did not happen. In the circumstances, on 5 August 2026, I indicated that it was concerning to me that the Council failed to make the necessary enquiries from Bitou Municipality and the investigating officer in respect of the criminal charges. Of course, they could have just asked Mr Ngubo to provide his version. I cannot force an applicant for an extension to deal with my queries. The Council is the requester and they should ensure that the full picture is placed before me. They deliberately refuse to make use of the opportunity to present the full facts or to obtain Mr Ngubo's version from him.



51. On or about 20 August 2026, Mr Ngubo filed a Notice to Abide the decision of the Court in the previous matter. Had he participated, he could have ensured that he be provided more time to respond to allegations made against him. The time periods in the Order were determined without his input. Now he wants to complain that they were too short.
52. I was hoping that the Municipality would present me with the information I had repeatedly asked before, as part of their supplementary representations, as provided for in the Court Order.
53. This was not to be. On Monday, 24 August 2026, the Executive Mayor of the Knysna Municipality submitted a supplementary motivation, without dealing with the substance of the findings and allegations against Mr Ngubo. It was apparent that neither Mr Ngubo nor the Municipality would do so.


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54. For this reason, on Tuesday, 25 August 2026, I sent copies of an internal memorandum of the Bitou Municipality, dated 9 September 2024 and an Investigation Report on Mr Boy Ngubo by BCHC Inc. Attorneys, dated 15 November 2024. I afforded the Knysna Municipality recipients, including Mr Ngubo, an opportunity until the following day, i.e. Wednesday, 26 August 2026 at 12h00 to comment on the contents of the documents should they wish to do so.

55. On Wednesday, 26 August 2026, the Knysna Municipality provided their comments on the aforementioned memorandum and Report. The Municipality chose to attack the procedural, evidentiary and legal issues of the Report, as opposed to grappling with the substantive contents thereof.



56. On Wednesday, 26 August 2026, HDRS Attorneys, on behalf of Mr Ngubo, submitted their comments on the Memorandum and Report emanating from the Bitou Municipality, again refusing to deal with the substance of the allegations and findings made against him.

57. On 27 August 2026, in compliance with the Order, I provided the Executive Mayor and the Knysna Municipal Council with my reasons refusing to approve the extension of acting appointment of Mr Ngubo as municipal manager. The failure to respond to the substance of the Memorandum and the Report was the primary reason why I refused to extend his appointment. It is the refusal to deal with the substance, rather than the actual findings and allegations made in this Report, which was the basis of my decision.

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58. Neither Mr Ngubo nor the Municipality made any effort to deal even with the most basic issues. For instance, is it correct that Mr Ngubo signed off on payment for an entity in the amount of R1 430 370.00 without following any tender process and for a service that was not required and without explaining what was done to justify the payment? Even the basic facts are not dealt with.

59. For all these reasons, it is submitted that my decision was not procedurally unfair, let alone procedurally irrational.

E. AD SERIATUM RESPONSE TO THE FOUNDING AFFIDAVIT



60. Due to the truncated times provided for in the notice of motion, I am not able to fully address all the averments made in the founding affidavit. This is, as I described above, is a "*preliminary answering affidavit*".

Ad paragraphs 4 to 5 thereof

61. While the Applicant states that he does not seek to reopen a dispute which he elected not to oppose, that is precisely the effect of the present application. In essence, the Applicant seeks to rescind the relief granted in terms of the Order. This is evident from the fact that the Order states that the decision by the Council on 7 August 2026, to appoint Mr Ngubo as the acting Municipal Manager for a further period of 3 months, is declared to be unlawful and invalid with effect from 27 August 2026.


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65. Ultimately, the Knysna Municipality did not furnish me with the relevant, requested information, i.e. a substantive response. Officials in the Department of Local Government then managed to obtain the information directly from the Bitou Municipality.

66. As stated hereinabove, Mr Ngubo and the Knysna Municipality failed to take appropriate steps from May 2026 to obtain the necessary information from the Bitou Municipality and/or the HAWKS.

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67. It stands to reason that had the Knysna Municipality, as well as Mr Ngubo, taken appropriate steps to obtain the necessary information and/or documents from Bitou Municipality, as requested from them since 21 May 2026, they would have obtained it. Instead, they chose to ignore my requests and more so the allegations against Mr Ngubo.
68. Mr Ngubo cannot at this stage of the process cry foul that he was not aware of the "*highly prejudicial material*" contained in the BCHC Report. Mr Ngubo was, on his own version, aware of the substance of the allegations. He nonetheless failed and/or refused to substantively respond to them in the course of his suspension hearing at Bitou.



Ad paragraph 10 thereof

69. I was required to determine the Knysna Municipality's application for extension of Mr Ngubo's acting MM position by 27 August 2026. I afforded the Knysna Municipality and Mr Ngubo an opportunity to comment on the BCHC Report and Bitou Municipality's internal memorandum. Sufficient time was provided given the background, but most importantly Mr Ngubo at all times knew about the allegations.

Ad paragraphs 57 to 59 thereof

70. It is apparent that the Knysna Municipality could not lawfully enter into an employment contract with Mr Ngubo for a further three month period, without my concurrence, as stipulated in section 54A(2A)(b) of the Systems Act.


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71. Mr Ngubo's initial acting MM position terminated by effluxion of time at midnight on 5 August 2026. The Knysna Municipality conceded this to be the position. He could not thereafter be reappointed, at least not without my approval.

72. Section 54A(3) of the Systems Act provides that:

"(3) A decision to appoint a person as municipal manager, and any contract concluded between the municipal council and that person by consequence of the decision, is null and void if-

(a) the person appointed does not have the prescribed skills, expertise, competencies or qualifications; or

(b) the appointment was otherwise made in contravention of this Act."



73. I am advised that section 54A(3) of the Systems Act extends to the appointment of an acting MM, considering the legislative scheme of section 54A.

74. Mr Ngubo's appointment was made in contravention of section 54A(2A)(b) and, accordingly, his contract of employment is null and void.

75. Mr Ngubo cannot accordingly rely on a contract of employment (which is null and void) to establish a right to interim and/or (effectively) final interdictory relief.

76. I refer in this regard to my counter-application filed herewith.


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Ad paragraph 61 thereof

77. I need to state emphatically that at no point during the exchange of affidavits in the former proceedings, was I informed by Knysna Municipality of Mr Ngubo's contract of employment, purportedly signed on 7 August 2026. The Municipality knew of that contract, of course. This makes the counterapplication necessary.

Ad paragraphs 63 to 67 thereof



78. Mr Ngubo cannot seek to nullify his election to abide the decision of the Court in the previous proceedings. He had a direct and substantial interest in the subject-matter and outcome of the application. It would have been prudent for him at that stage to oppose the relief sought on the basis that he had entered into a contract of employment with the Knysna Municipality for a period of a further three months. He chose not to disclose that but to raise it now.

Ad paragraphs 79 to 84 thereof

79. As stated hereinabove, I had requested as early as 21 May 2026 that the Knysna Municipality obtain information and/or documents from the Bitou Municipality (and the HAWKS) regarding Mr Ngubo's resignation and the ongoing HAWKS criminal investigation.
80. Officials in the Department of Local Government managed to obtain these documents, shortly before I finalized my decision, and obtained a waiver from

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the Bitou Municipality on or around 25 August 2026 to use their documents for any (relevant) court proceedings.

81. As stated hereinabove, Mr Ngubo cannot contend that he was not given an opportunity to deal with the substance of the allegations against him. The matter is simple but he repeatedly refuses to deal with the substance of the alleged irregularities.

Ad paragraphs 85 to 89 thereof :



82. Mr Ngubo correctly describes the allegations in the BCHC Report
"... extremely serious findings concerning my alleged conduct in transactions involving, amongst others, GG&G Consulting Engineers and ZWH Projects ..."
83. Despite acknowledging that the allegations contained in the BCHC Report are extremely serious, Mr Ngubo essentially asks this Court to find that I, as the MEC charged with constitutional and statutory oversight obligations in respect of local government, should ignore the existence of those allegations even though he has never dealt with them.
84. It would have been irrational for me to ignore the contents of the BCHC Report and the Memorandum and to grant concurrence for the extension of Mr Ngubo's acting MM appointment at Knysna municipality. A response was called for and not provided.


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85. I am not required by virtue of section 54A(2A)(b) of the Systems Act to determine the innocence or guilt of Mr Ngubo. I am required, as I have done, to consider whether special circumstances and good cause have been shown by the Knysna Municipality for concurrence for the extension of an acting MM appointment. I was not satisfied that such special circumstances existed or that the Knysna Council had shown good cause why they could not appoint another candidate to act as the MM or approach my office to second an appointee until a permanent appointment is made.



Ad paragraphs 90 to 93 thereof

86. Mr Ngubo addresses the materiality and relevance of the "*Felix Lotter Memorandum*" but fails to admit or deny or deal with the contents thereof.
87. It is telling that Mr Ngubo has to date not denied the allegations against him, except to raise the procedural fairness of me referring to the Memorandum and the BCHC Report. Surely, he could have addressed the allegations contained therein in his founding papers.

Ad paragraphs 94 to 100 thereof

88. Mr Ngubo implies that by considering the contents of the BCHC Report and Bitou Municipality's internal memorandum that I acted improperly or "... for an *ulterior purpose*...". That is a scurrilous allegation which is made without any factual basis therefor. What is of great concern to me is that a former acting MM does not comprehend how serious allegations of *inter alia* financial misconduct against a CFO at a municipality would be considered as relevant


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to my determination of an individual's suitability for appointment as an (acting)
MM.

Ad paragraphs 111 to 115 thereof

89. Mr Ngubo's failure to deal with the Bitou Municipality's allegations / complaint against him since at least November 2024 cannot be grounds for the relief he seeks herein. Mr Ngubo admits that he was aware of the allegations against him, so why not deal with them? What does it matter that they were contained in a Report which he has allegedly not seen? He knew about them.



90. Mr Ngubo knew about the allegations against him but was content to leave those dangling indefinitely to the extent that it did not affect his existing or future employment prospects in a senior position at a different local government municipality.

Ad paragraphs 121 to 125 thereof

91. I admit that the BCHC Report and Bitou Municipality's internal memorandum were central to my consideration of the extension application. However, as explained above, it is more the failure to respond to the substance of these documents that counted against him.
92. It would have been irrational for me to grant the application for such an extension despite being privy to the serious allegations against Mr Ngubo. I reiterate that an extension of an acting MM position should only be granted in


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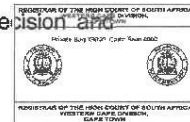
special circumstances, as opposed to refused in special circumstances.

Mr Ngubo had no right to my concurrence for the extension of his appointment.

Ad paragraphs 126 to 146 thereof

93. Due regard must be given to the timeframes provided for in the Order, which required that I convey my decision, with reasons, on 27 August 2026.

94. I took various comments into consideration and finalized my decision and reasons in order to meet the deadline of 27 August 2026.



95. The purpose of detailed reasons was to ensure that adequate reasons were provided to the parties in an attempt to avoid having to deal with subsequent request for reasons.

Ad paragraphs 147 to 157 thereof

96. The duty to obtain the BCHC Report and /or any other documents relevant to the suitability of Mr Ngubo to be appointed by the Knysna Municipality as the acting MM, rested on the Knysna Council and not on me, as implied by Mr Ngubo herein.

Ad paragraphs 158 to 169 thereof

97. Section 54A(2A) does not require me to conduct a performance appraisal of the intended appointee to determine whether to grant or refuse an application for an extension. Section 54A(2A)(a) in fact prescribes that: "... A person


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appointed in terms of subsection (1)(b) may not be appointed to act for a period that exceeds three months.

98. What was required of the Knysna Municipality was to demonstrate special circumstances and good cause. I was not satisfied that the reasons put forward by the Knysna Municipality constituted special circumstances or good cause and certainly did not override the serious (unresolved) allegations levelled against Mr Ngubo.



Ad paragraphs 170 to 176 thereof

99. I was unaware that the Knysna Municipality had concluded a contract of employment with Mr Ngubo on 7 August 2026. Had this information come to light during the course of the previous application, I would have addressed it at that stage.
100. Nevertheless, as stated hereinabove, the contract of employment is null and void for non-compliance with the provisions of section 54A(2A)(b) of the Systems Act.

Ad paragraphs 191 to 194 thereof

101. The relief sought herein by Mr Ngubo to stay the operation and execution of the Order is incompetent.
102. Firstly, the Order has already been put into operation.

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BLB



108. I do not intend to repeat averments I have addressed hereinabove, save to state that Mr Ngubo does not have good prospects of success on review.

109. The BCHC Report was relevant to my consideration as was the ongoing HAWKS investigation.

110. I could not rationally ignore the seriousness of the allegations against Mr Ngubo and extend his acting MM appointment. His initial appointment was not subject to my concurrence, and as stated previously, I was not in possession of the BCHC Report.

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111. Again, section 54A(2A)(b) requires me to exercise a discretion whether to grant an extension of an acting MM appointment. I exercise that discretion by having regard, which I did, to, *inter alia*, the reasons put forward by the relevant municipality to establish such special circumstances and good cause as an exception to section 54A(2A)(a) of the Systems Act. The main problem was the failure to deal with the substance of the Report and the Memorandum.

Ad paragraphs 200 to 202 thereof

112. I did not endorse the unlawful contract of employment entered into between the Knysna Municipality and Mr Ngubo.



113. The harm to Mr Ngubo was foreseeable given that his initial term ended at midnight on 5 August 2026, and I had not granted the Knysna Municipality concurrence to extend the appointment.
114. The reputational prejudice to Mr Ngubo existed prior to these proceedings, presumably when criminal investigation was opened by the HAWKS into Mr Ngubo's conduct at the Bitou Municipality

Ad paragraphs 203 to 205 thereof

115. The balance of convenience does not favour the granting of interim relief which is contrary to the Court Order of 20 August 2026 and in contravention of the provisions of the Systems Act.


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116. The Knysna Municipality has failed to explain why another internal senior manager cannot be appointed to act as the MM in order to avoid an interruption in the executive leadership of the Municipality.
117. Mr Ngubo cannot be deemed to be the only and most suitable candidate for the acting MM position, particularly in light of the serious allegations against him.

Ad paragraph 206 to 208 thereof



118. Mr Ngubo seeks to continue acting for a further 3-month period in contravention of section 54A(2A)(b) and looks to this Court to endorse his unlawful conduct.
119. Mr Ngubo can avail himself of remedies in the ordinary course as this matter is not urgent, he is currently not the acting MM and his contract of employment is null and void:
120. It would seem that he is attempting to create rights which do not currently exist by obtaining urgent interim relief.

Ad paragraphs 209 to 216 thereof

121. Any redress Mr Ngubo seeks in respect of his unlawful contract of employment should be done in the ordinary course.
122. Mr Ngubo's contract of employment was not cancelled or set aside in the previous proceedings because it was not brought to my attention or more

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significantly, included in the Knysna Municipality's answering affidavit or counterapplication.

123. Mr Ngubo has failed dismissably to show the existence of a clear right as referred to in paragraph 215 hereof. An unlawful contract of employment does not establish a clear right for interdictory relief pending a review, which has no prospects of success.

Ad paragraphs 217 to 238 thereof



124. I will elaborate on my defence by filing a supplementary answering affidavit.
125. I submit that the Applicant has afforded me with less than 24 hours within which to answer to this application, based on purported urgency.

Ad paragraphs 242 to 259 thereof

126. I have addressed the lack of urgency as a point *in limine* hereinabove, save to state the discretion granted to me by virtue of section 54A(2A)(b) of the Systems Act cannot be overridden by an unlawful contract of employment entered into between the Knysna Municipality and the Applicant, Mr Ngubo.
127. Any administrative uncertainty to the Knysna Municipality could have been minimized weeks ago by the appointment of another incumbent into the position of the acting Municipal Manager. However, the Knysna Municipality has been persistent, almost irrationally so, in their attempts to retain Mr Ngubo as the Acting MM for reasons unknown to me.


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128. For the sake of completeness, I reiterate that the current *status quo* is that Mr Ngubo is not the acting MM of Knysna Municipality, as from 28 August 2026 by virtue of the Court Order, dated 20 August 2026 and my refusal to extend his acting MM position. If Mr Ngubo is continuing to take decisions as the acting MM of Knysna Municipality, his conduct may well constitute contempt of a court order.

129. There is no legal basis for the suspension of the 20 August 2026 Order

Ad paragraphs 260 to 270 thereof



130. I ask that this Court refuse the relief sought herein by the Applicant on the basis that the application constitutes an abuse of court processes.

131. The application is not urgent and there is no *status quo* to preserve.

132. The Applicant abided the decision of the court in the previous proceedings and cannot seek to rescind or vary the terms of that order on the basis of my subsequent decision, which was not favourable to him.

133. There are no legitimate grounds of review of my decisions under PAJA or a legality challenge. This application is no more than an attempt by Mr Ngubo to serve a further 3-month period as the acting MM. By the time the Part B review is heard, that period would have expired.

134. It is not in the interest of justice to allow the Applicant to reassume the position of Acting MM, in circumstances where it would be in contravention of the provisions of the Systems Act, as described hereinabove.


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135. Given the abuse, identified above, I ask that this Court grant a cost order against the Applicant on the attorney-client scale.

F. CONCLUSION

136. For the reasons set out hereinabove, I ask that this Court dismiss the relief with costs as referred to above.



ANTON WILHELM BREDELL

I certify that:

1. The deponent acknowledged to me that:
 - 1.1. he knows and understands the contents of this declaration;
 - 1.2. he has no objection to taking the prescribed oath;
 - 1.3. he considers the prescribed oath to be binding on his conscience.
2. The deponent thereafter uttered the words, "*I swear that the contents of this declaration are true, so help me God*".
3. The deponent signed this affidavit in my presence at the address set out hereunder on this the 2nd day of **SEPTEMBER 2026**.




7026186 0733900512
WLO SINTOLE
COMMISSIONER OF OATHS

WCAAI
2026-7-10-11 M

Bitou Municipality
Attention: Mr M. Memani
Email: mmemani@plett.gov.za

7 October 2024

Dear Sir

RESPONSE TO NOTICE IN TERMS OF REGULATION 6 (2) OF THE LOCAL GOVERNMENT DISCIPLINARY REGULATIONS FOR SENIOR MANAGERS 2010 AS PUBLISHED IN GN 344 IN GG34213, APRIL 2011

Your letter dated 1 October 2024 refers. The contents of which is noted.

In response to the allegations contained therein, consider the submissions made below:



Allegation 1

Irregular, unauthorised, fruitless & wasteful expenditure relating to GG&G Consulting Engineers

Payments made to GG&G Consulting Engineers were done on the instruction of the then Municipal Manager, Mr Ralph Links. It is common cause that a condition of any employment relationship is that the employee has the duty to carry out lawful and reasonable instructions given by its employer.

At the time the invoices arose, I had just been appointed as Acting Chief Financial Officer, and the financial year end was coming to a close. It is customary that all invoices to service providers falling within that period should be settled before the year end is finalised. Further it is common practice to make use of funds from different sections if a particular u-key has been depleted, as the service provider indicated the tender number under which the work was done, I had no reason to believe that this information was incorrect and acted accordingly.

It is important to note that at no time during my appointment as Chief Financial Officer did I have access to the bank to make any payment or load an invoice on the SAMRAS System.

Lastly, it would have been irresponsible if I had not ensured the payments were made, leaving the invoices to attract interest or in the worst case scenario, litigation where the Municipality would have been forced to appoint legal representation and possibly an order for legal fees to be paid by the Municipality.

Allegation 2

Possible collusion with former Acting Municipal Manager and GG&G

I personally do not know any director or employee of GG&G consulting engineers. Neither have I had any interaction with any employee or director of this company. I had


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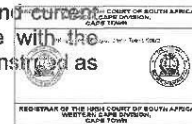
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no reason to believe that Mr Links had personal involvement with the service provider when I was handed the invoices for payment.

In the position of chief financial officer it is very seldom that any actual product comes across your desk. It is the duty of the project manager or director of the section to ensure quality of work for the invoices received. As these invoices arrived through the office of the Municipal Manager, who is the accounting officer for the municipality, there was no reason to question the invoices, or the quality of work received from the service provider.

Suspension

I do not believe that suspension relating to the aforementioned matter is necessary as all the evidence is already in the possession of the Municipal Manager and current Chief Financial Officer. Further there is no reason for me to interfere with the investigation or any witness as I am confident that my actions cannot be construed as misconduct.



As I am currently appointed in a different department, I no longer have access to or any involvement with processing of invoices, journals or payments to service providers. Therefore, I cannot instruct further invoices to be paid and thereby negating the possibility of further misconduct. Furthermore, as I am on a fixed term contract which is due to expire soon, the prejudice to end my contract under suspension far outweighs any inconvenience the employer may suffer as a result of my being at the workplace¹.

Yours Faithfully

Boy M. Ngubo

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¹ Imatu OBO Daniel Matwakaziwa Hobe vs Merafong City Local Municipality & others LC 2017 pg 18, par 29.

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**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case no: 2026-210434

In the matter between:

BOY MANQOBA NGUBO

APPLICANT

and

**THE MEMBER OF THE EXECUTIVE
COUNCIL FOR LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND**

DEVELOPMENT PLANNING, WC

FIRST RESPONDENT

KNYSNA LOCAL MUNICIPALITY

SECOND RESPONDENT

BITOU MUNICIPALITY

THIRD RESPONDENT

BRADLEY CONRADIE HALTON

CHEADLE ATTORNEYS (BCHC)

FOURTH RESPONDENT

Coram: Kusevitsky J

Heard: 02 SEPTEMBER 2026

Delivered: 04 SEPTEMBER 2026

ORDER

1. The application is struck from the roll with costs for lack of urgency.



DS KUSEVITSKY
JUDGE OF THE HIGH COURT

Appearances

For applicant: ADV. S NTULI

Instructed by: HDRS ATTORNEYS INC
C/O RABELLO KARSTENS INC

For respondent: ADV. J DE WAAL SC

ADV. M DAVIS

Instructed by: STATE ATTORNEY – CAPE TOWN

E

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

CASE NO: 2026-196199

In the matter between:

**WESTERN CAPE PROVINCIAL MINISTER OF
LOCAL GOVERNMENT, ENVIROMENTAL AFFAIRS
AND DEVELOPMENT PLANNING**

Applicant

And

THE KNYSNA MUNICIPALITY

First Respondent

THE SPEAKER OF THE KNYSNA MUNICIPAL COUNCIL

Second Respondent

**THE ACTING MUNICIPAL MANAGER OF THE KNYSNA
MUNICIPALITY: BOY MANQOBA NGUBO**

Third Respondent

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

KINDLY TAKE NOTICE that the Third Respondent ("Ngubo") hereby applies, in terms of section 17(1)(a) of the Superior Courts Act 10 of 2013, for leave to appeal against the order granted by the Honourable Justice Mangcu-Lockwood on 20 August 2026, and in particular paragraphs 1 and 3 thereof, to the Full Court of this Division, alternatively to the Supreme Court of Appeal.

TAKE NOTICE FURTHER that the application for leave to appeal is confined to the following grounds:

FIRST GROUND: SECTION 54A(8) OF THE MUNICIPAL SYSTEMS ACT

1. The learned Judge erred in entertaining and granting the application in circumstances where the proceedings contemplated in section 54A(8) of the Local Government: Municipal Systems Act 32 of 2000 ("the Systems Act") were instituted outside the period prescribed by that section, alternatively in instances where the court lacked jurisdiction.
2. The Council resolution which formed the subject matter of the application was taken on 14 July 2026 and extended Ngubo's appointment as Acting Municipal Manager for a further period of three months, alternatively until the finalisation of the matter concerning Dr Mapholoba, whichever occurred first.
3. The Applicant was informed of the resolution on 14 July 2026. This appears from the Applicant's own annexure "AB4", in which he records receipt of correspondence dated 14 July 2026 enclosing the resolution taken on that date.
4. The subsequent events of 7 August 2026 did not constitute a fresh decision capable of restarting the statutory period contemplated in section 54A(8), but constituted the implementation of the Council decision already taken and communicated to the Applicant on 14 July 2026.
5. The proceedings were instituted only on 17 August 2026, after expiry of the period contemplated in section 54A(8). The First and Second Third respondents are not authorized by the law to extend the period contemplated in section 54A of the Act.

6. The learned Judge accordingly erred in finding, expressly or by necessary implication, that the Applicant retained the statutory competence under section 54A(8) to institute proceedings challenging the appointment.

SECOND GROUND: SECTION 54A(10) AND THE MEC'S POWER UNDER SECTION 54A(2A)(b)

7. The learned Judge further erred in failing to give effect to the consequence expressly prescribed by section 54A(10) of the Systems Act.
8. Section 54A(10) provides that where the MEC fails to respond to the appointment process and outcome within the timeframe contemplated in section 54A(8), the appointment of the municipal manager or acting municipal manager is deemed to be in compliance with the Systems Act, provided the prescribed relevant documents were submitted.
9. Upon expiry of the statutory period, and subject to satisfaction of the jurisdictional requirements of section 54A(10), Ngubo's appointment was accordingly deemed compliant with the Systems Act.
10. The learned Judge therefore erred in ordering, in paragraph 3 of the order, that the Applicant determine whether to approve the Council's request of 14 July 2026 to extend Ngubo's acting appointment and, in particular, in determining that the Applicant was "not precluded from deciding the request for extension by virtue of any provision of section 54A".

11. The Court could not confer, revive or extend a statutory power which, by operation of sections 54A(8) and 54A(10), was no longer lawfully available to the Applicant.
12. The learned Judge accordingly ought to have found that the Applicant could not, after expiry of the statutory period, lawfully exercise the power contemplated in section 54A(2A)(b) in respect of the Council resolution of 14 July 2026.

REASONABLE PROSPECTS OF SUCCESS

13. There are reasonable prospects that another Court would find that:
 - 13.1. the statutory period contemplated in section 54A(8) commenced when the Applicant received the relevant information concerning the Council resolution of 14 July 2026;
 - 13.2. the subsequent implementation of that resolution did not restart the statutory period;
 - 13.3. the proceedings instituted on 17 August 2026 were outside the statutory period;
 - 13.4. the consequence prescribed by section 54A(10) had accordingly arisen, subject to its jurisdictional requirements; and
 - 13.5. the Applicant could not thereafter exercise the power contemplated in section 54A(2A)(b) as though the statutory period and its consequences had not arisen.

14. The proposed appeal raises important questions concerning the proper interpretation and interaction of sections 54A(2A)(b), 54A(8) and 54A(10) of the Systems Act and the limits of an MEC's statutory powers after expiry of the period prescribed by Parliament.
15. There are accordingly reasonable prospects of success as contemplated in section 17(1)(a)(i) of the Superior Courts Act and, alternatively, compelling reasons contemplated in section 17(1)(a)(ii) for the appeal to be heard.

WHEREFORE the Third Respondent seeks an order:

16. granting leave to appeal against paragraphs 1 and 3 of the order of the Honourable Justice Mangcu-Lockwood dated 20 August 2026 to the Full Court of this Division, alternatively to the Supreme Court of Appeal;
17. costs of the application for leave to appeal to be costs in the appeal; and
18. further and/or alternative relief.

DATED IN PLETTENBERG BAY ON THIS 7th DAY OF SEPTEMBER 2026

HDRS ATTORNEYS INC.
ATTORNEYS FOR THE THIRD RESPONDENT
SUITE 27 MELVILLES CORNER
PLETTENBERG BAY
REF: W07700
EMAIL: fdp@hdrs.law.za
C/O R K INC

SPECIAL COUNCIL MEETING
AGENDA
10 SEPTEMBER 2026

107 BREE STREET
CAPE TOWN
TEL: 021 891 3444
EMAIL: ryan@rkinc.co.za

TO: **THE REGISTRAR**
High Court
Western Cape Division
CAPE TOWN

AND TO: **MAMIKI MOTSILENYANA**
ATTORNEY FOR APPLICANT
STATE ATTORNEY
4TH FLOOR, 22 LONG STREET
CAPE TOWN
EMAIL: mmotsilenyana@justice.gov.za
kbrinkhuys@justice.gov.za
cnewman@justice.gov.za
Anton.Bredell@westerncape.gov.za

AND TO: **THE KNYSNA LOCAL MUNICIPALITY**
FIRST RESPONDENT
c/o **THE ACTING MUNICIPAL MANAGER**
5 CLYDE STREET
KNYSNA
EMAIL: mm@knysna.gov.za
tmatika@knysna.gov.za

AND TO: **THE SPEAKER OF THE KNYSNA MUNICIPALITY**
SECOND RESPONDENT
C/O **THE ACTING MUNICIPAL MANAGER**
5 CLYDE STREET

KNYSNA

EMAIL: mskosana@knysna.gov.za

ELECTRONIC SERVICE

SPECIAL COUNCIL MEETING
AGENDA
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Western Cape
Government

AB4
Ministry of Local Government,
Environmental Affairs & Development Planning

Tel: +27 21 483 3915
Fax: +27 21 483 6081

REFERENCE: 13/3/1/2/K12 (2026/131 - 3/11/2/16)

The Executive Mayor
Knysna Municipality
PO Box 21
KNYSNA
6570
Per email: imatika@knysna.gov.za

Dear Councillor Matika

EXTENSION OF ACTING PERIOD - MUNICIPAL MANAGER

1. I refer to the above as well as the e-mail correspondence from the Municipality dated 14 July 2026, enclosing an extract of the resolution taken on 14 July 2026 by the Knysna Municipal Council (the "**Resolution**"). In the Resolution, the said Council approved the continuation of the appointment of Mr. Boy Ngubo as acting Municipal Manager for a further period of three (3) months.
2. As indicated in my correspondence dated 21 May 2026 and to which no response was forthcoming, Mr. Ngubo was suspended from Bitou Municipality during his tenure at the Municipality, however resigned prior to the institution of disciplinary action against him. A copy of my correspondence is appended hereto for ease of reference and marked as **Annexure "A"**.
3. In addition, my referenced correspondence alerted you to the fact that Bitou Municipality instituted criminal proceedings against Mr. Ngubo, under CAS 148/11/2024, which is still ongoing and I enquire as to whether the Municipal Council took cognisance thereof, as well as the charges laid against Mr. Ngubo, in its decision to extend the acting appointment of Mr. Ngubo. To this end, you are requested to provide the following information and supporting documentation:
 - 3.1. A copy of the report which was tabled before Council leading to the appointment;
 - 3.2. Confirmation as to whether the Municipal Council considered and deliberated on the contents of my correspondence dated 21 May 2026; and

EXTENSION OF ACTING PERIOD - MUNICIPAL MANAGER

www.westerncape.gov.za
9th Floor, 1 Dorp Street, Cape Town, 8001 | Private Bag X9186, Cape Town, 8000.

mes

SPECIAL COUNCIL MEETING
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- 3.3. Whether the Municipality made enquiries with Bifou Municipality and/or the investigation officer as to the status of the criminal proceedings.
4. You are requested to provide the abovementioned information within **seven (7) days** of receipt of this correspondence, for the purposes of concluding the assessment on the extension of the acting period. I trust that in the spirit of cooperative governance you will cooperate with my Office in this respect.
5. I further deem it necessary that the Municipal Council continue to monitor the progress of the criminal proceedings, and as such furnish you with the particulars of the investigating officer as follows: Lieutenant Colonel LE Manuel-Triegaardt, T: +27 44 803 4515 or 071 481 2488.

Sincerely,

A BREDELL

MINISTER

DATE: 29 JULY 2026

ENDORSED TO:

Councillor Mark Willemse	mwillemse@knysna.gov.za
Councillor Marton Gericke	mgericke@knysna.gov.za
Councillor Kay Andrews	kandrews@knysna.gov.za
Councillor Russel Arends	rarends@knysna.gov.za
Councillor Richard Kakora	rkakora@knysna.gov.za
Councillor Cleone Vanston	cvanston@knysna.gov.za
Councillor Mboneli Khumelwana	mkhumelwana@knysna.gov.za
Councillor Neil Louw	nlouw@knysna.gov.za
Councillor Sharon Sabbagh	ssabbagh@knysna.gov.za
Councillor Pindile Petros	ppetros@knysna.gov.za
Councillor Hilton Stroebe	hstroebe@knysna.gov.za
Councillor Jason White	jwhite@knysna.gov.za
Councillor Levael Davis	ldavis@knysna.gov.za
Councillor Luzuko Tyokolo	ltokolo@knysna.gov.za
Councillor Peter Bestler	pbester@knysna.gov.za
Councillor Aubrey Tsengwa	atsengwa@knysna.gov.za
Councillor Susan Campbell	scamp@mweb.co.za
Councillor Lukhanyiso Nohana	lnohana@knysna.gov.za
Councillor Andre van Schalkwyk	avanschalkwyk@knysna.gov.za

EXTENSION OF ACTING PERIOD - MUNICIPAL MANAGER

www.westerncape.gov.za

9th Floor, 1 Darp Street, Cape Town, 8001 | Private Bag X9186, Cape Town, 8000.

6.2

SC02/09/26 APPOINTMENT OF AN ACTING DIRECTOR CORPORATE SERVICES
--

REPORT FROM THE ACTING MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To request Council to appoint an Acting Director Corporate Services.

BACKGROUND

Council in terms of the Council Resolution SC04/07/26 appointed Mr Charl Botha who is Acting as Director Corporate Services in terms of abovementioned Council Resolution for a period of 3 months.

To ensure the continuation of service delivery, Council needs to express itself on the appointment of an Acting Director Corporate Services.

The minimum requirements for an Acting Director Corporate Services are as follows:

- At least a Post Graduate in Public Administration/Management Sciences /Law; or equivalent at NQF Level 8 with a minimum of 120 credits.
- Minimum of seven (7) years' work related experience at senior and middle management level, of which at least 2 years must be at senior management level;
- Have proven successful management experience in administration
- Good knowledge and understanding of relevant policy and legislation;
- Good knowledge and understanding of institutional governance systems and performance management;
- Good knowledge of corporate support services, including:
- Human capital management;
- Legal Services;
- Facilities Management;
- Information communication technology; and
- Council support;
- Good knowledge of supply chain management regulations and the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- Good Governance;
- Labour Relations Act, and other labour-related prescripts;
- Legal background and human capital management; and
- Knowledge of coordination and oversight of all specialized support functions.
- The required core competencies as stipulated in Annexures A and B of the Regulations on Appointment and Conditions of Employment of Senior Managers Government Notice 21 in Government Gazette 37245 dated 17 January 2014.
- Compliance with the National Treasury Regulations on the Required Minimum Competency Level in Unit Standards is a recommendation. In terms of the exemption from Regulations 15 and 18 of Government Gazette 29967 officials not compliant will be granted 18 months from date of employment to comply with the aforesaid regulations.

The Municipal Systems Act, Act 32 of 2000, as amended states as follows:

“Appointment of managers directly accountable to municipal managers

56. (1) (a) *A municipal council, after consultation with the municipal manager, must appoint—*

- (i) a manager directly accountable to the municipal manager; or*
- (ii) an acting manager directly accountable to the municipal manager under circumstances and for a period as prescribed*
- (b) A person appointed in terms of paragraph (a)(i) or (ii) must at least have the skills, expertise, competencies and qualifications as prescribed.*
- (c) A person appointed in terms of paragraph (a)(ii) may not be appointed to act for a period that exceeds three months: Provided that a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a), for a further period that does not exceed three months.”*

FINANCIAL IMPLICATIONS

MTREF 2026\2027

RELEVANT LEGISLATION

Municipal Systems Act 32 of 2000, as amended.

Regulations on the Appointment of and Conditions of Senior Managers, January 2014

Upper Limits of Total Remuneration Packages payable to Municipal Managers and Managers directly accountable to Municipal Managers

RECOMMENDATION

- [a] That the report regarding the Acting Director Corporate Services be noted.
- [b] That Council appoint _____ as Acting Director Corporate Services for a period of 3 months.

6.3

SC03/09/26 APPOINTMENT OF AN ACTING INFRASTRUCTURE SERVICES
--

REPORT FROM THE ACTING MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To request Council to appoint an Acting Director Infrastructure Services.

BACKGROUND

Due to the absence of Director Infrastructure Services in terms of Councils Resolution, Council needs to appoint an Acting Director Infrastructure Services to ensure continued service delivery.

The minimum requirements for an Acting Director Infrastructure Services are as follows:

- At least a Post Graduate Degree or qualification in Engineering and equivalent registered on the National Qualifications Framework at NQF Level 8 with a minimum of 120 credits
- Minimum of 7 years work related experience at a senior and middle management level, of which at least 2 years must be at senior management level
- Good Knowledge and understanding of relevant policy and legislation
- Good Knowledge and understanding of institutional governance systems and performance management
- Must have extensive knowledge of the public office environment
- Must be able to formulate engineering master planning, project management and implementation
- Certificate of competency as required in terms of the General Machinery Regulations, 1988, will be an added advantage
- Registration with a recognized relevant engineering professional body
- Compliance with the National Treasury Regulations on the Required Minimum Competency Level in Unit Standards is a recommendation. In terms of the exemption from Regulations 15 and 18 of Government Gazette 29967 officials not compliant will be granted 18 months from date of employment to comply with the aforesaid regulations
- The required core competencies as stipulated in Annexures A and B of the Regulations on Appointment and Conditions of Employment of Senior Managers Government Notice 21 in Government Gazette 37245 dated 17 January 2014 is a recommendation
- Good facilitation and communication skills in at least two of the three official languages of the Western Cape
- Valid driver's license and NO criminal record.

FINANCIAL IMPLICATIONS

MTREF 2026\2027

RELEVANT LEGISLATION

Municipal Systems Act 32 of 2000, as amended.

Regulations on the Appointment of and Conditions of Senior Managers, January 2014
Upper Limits of Total Remuneration Packages payable to Municipal Managers and
Managers directly accountable to Municipal Managers

RECOMMENDATION

- [a] That the report regarding the Acting Directorate Infrastructure Services be noted.
- [b] That Council appoint _____ as Acting Director Infrastructure Services for a period of 3 months or until the finalization of the Disciplinary process, whichever occurs first.

7 IN COMMITTEE (*None*)

8. ADJOURNMENT

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